

Seattle Waterfront LID Assessment Hearing

Seattle LID Hearing

June 23, 2020



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SEATTLE WATERFRONT LID ASSESSMENT HEARING

BEFORE

HEARING EXAMINER RYAN VANCIL

Taken in Seattle, Washington

(ALL PARTICIPANTS APPEARING VIA VIDEOCONFERENCE)

DATE TAKEN: June 23, 2020

REPORTED BY: Nancy M. Kottenstette, RPR, CCR 3377

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HEARING EXAMINER VANCIL: I call to order this June 22, 2020, continuance of the Seattle Waterfront LID Assessment Hearing. Today, as planned, is the first day for cross-examination by objectors of City witnesses.

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As a reminder, only the City and objectors planning to cross-examine the City's witnesses will participate directly in the hearing today and the following days. Other objectors in the public may listen to the hearing via a listening line established on the Office of Hearing Examiner website, front page. Callers will be able to listen to the hearing but will not be participating in the hearing for any purpose.

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There will be no Seattle Channel broadcast for this segment of the hearing. The lack of broadcast will give us a slightly more flexible opportunity with the schedule. We will take -- try to take a 10:00 a.m. break for 15 minutes, a lunch break for an hour and 15 minutes at about noon, and another break at about 3:00.

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However, since we're not stuck to the Seattle Channel trying to stop at a specific time, I will stop generally about when I see a good opportunity for us to do that around those times generally depending on

1 where we are with the witness and questioning.

2 Remember that this is a remote hearing, that
3 if there are problems with the technology, there may
4 be cause for a continuance. I believe everyone has
5 been on the line for a couple of days now solid. So I
6 shouldn't have to go back through the participation
7 protocols, which you've all received as part of the
8 sign-in and have been read over the past two days.

9 If there's any questions about that, we can go
10 over it or I can remind you as before if anybody has a
11 problem with that. I see that a number of objectors
12 have submitted their exhibits in advance, and I have
13 those available.

14 I'll check now to see if there are any
15 procedural questions, general procedural questions,
16 that any party has before we get started?

17 MR. FILIPINI: Mr. Hearing Examiner,
18 this is Mark Filipini for the City. Two procedural
19 minor points, one, I believe that we failed to move to
20 admit C-23 through C-32 last week during our live
21 direct examination, so I would move to admit those
22 exhibits.

23 HEARING EXAMINER VANCIL: Any objection
24 to exhibits from the City C-23 to C-32 being admitted?

25 Anyone have an objection to any one of the

1 exhibits numbered C-23 through C-32 from being
2 admitted?

3 Exhibits 23 through 32 are admitted.

4 (Exhibit 23, Exhibit 24, Exhibit 25,
5 Exhibit 26, Exhibit 27, Exhibit 28, Exhibit 29,
6 Exhibit 30, Exhibit 31, Exhibit 32 were admitted.)

7 MR. FILIPINI: And the only other thing
8 you had asked us on Friday if we could look this
9 weekend at any parcels that -- where Mr. Macaulay
10 would need to submit a reevaluation due to additional
11 information gained, and there were four of them. And
12 I can identify them by case number.

13 HEARING EXAMINER VANCIL: Okay.

14 MR. FILIPINI: One is the United Way
15 property, and that is Case Number 0417. And I believe
16 we mentioned that last week, but that's 0417.

17 One is Century Square parcel. That is at Case
18 Number 0423, 0423.

19 The third is the North Arcade parcel in the
20 Pike Place Market. That is Case Number 0392, 0392.

21 And another is City Parks parcel at Urban
22 Triangle Park. That is a Case Number 0184, 0184.

23 And that was it.

24 HEARING EXAMINER VANCIL: Okay. Thank
25 you.

1 Are there any other procedural items that we
2 need to address, general procedural items, before we
3 start today?

4 All right. I did receive -- and thank you --
5 I did receive a list of objectors, how they will
6 proceed in questioning, and we're starting with Robert
7 Macaulay. I think we can just work off that list. Is
8 there anyone -- is there any objector that's on the
9 line now who has not coordinated with the other
10 objectors and is not identified in the list that I
11 received today from Mr. Moses?

12 All right. Then I'll assume that all
13 objectors have had an opportunity to coordinate
14 through the promptings that I've indicated in the
15 prehearing orders, our prehearing conference that
16 we've had, and discussions last week with the --
17 during the hearing with the City's case-in-chief
18 presentation.

19 And you all understand that we'll be
20 proceeding in order here; otherwise, I need an -- we
21 need an indication to either my legal assistant or
22 myself that you haven't had an opportunity to ask
23 questions.

24 Just as a quick reminder before we jump into
25 it -- and I think you're all aware of this now, the

1 group I've got on the line now, does understand that
2 the process is one of elimination as far as questions.
3 So once a question that is going to elicit the same
4 response has been asked, subsequent questioners should
5 not ask the same question again. It's already been
6 established in the record.

7 Similarly, I would encourage you -- on a
8 similar vein, this is as much the attorneys as the pro
9 se participants, try to not fall into a cadence of
10 conversation with the witness. It's common
11 particularly with attorneys to ask a witness if they
12 actually said something or did you say this in order
13 to set up the next question.

14 If it's already in the record, it's in the
15 record. I've heard the testimony from the witness.
16 You've heard it. We don't need a witness to keep
17 repeating themselves. When we've got time or we've
18 got space and not the inefficiencies that we may run
19 into with technology, maybe I allow those types of
20 questions. It's no harm, no foul, but it really is an
21 unnecessary waste of time.

22 And we've got a lot of people waiting to ask
23 their questions, and rather than falling into a
24 conversation where you ask the witness to repeat what
25 they've already got in the record, please save that

1 for your closing argument where you can simply
2 reference the point in the record earlier where they
3 said it and where the response was elicited in
4 response to the cross-examination.

5 Again, I'm looking for as much efficiency as
6 possible. I want to make sure that everyone does get
7 their questions asked. And in order to do that, we do
8 need to be efficient. I don't want to lose the
9 opportunity to question to efficiency. I do want to
10 make sure you get your questions asked, but I am going
11 to emphasize that we do it in a manner that gets
12 everyone a chance to get the questions asked that they
13 want.

14 With that, it sounds like we don't have any
15 further questions and we're ready to go. Do we have
16 Mr. Macaulay on the line?

17 MR. MACAULAY: Yes, Mr. Hearing
18 Examiner.

19 HEARING EXAMINER VANCIL: All right.
20 Mr. Macaulay, you remain under oath or affirmation
21 from the earlier portion of the hearing, and it looks
22 like we have Ms. Lin asking questions first.

23 MS. LIN: Correct.

24 HEARING EXAMINER VANCIL: Please
25 proceed. Your witness, Ms. Lin.

1 EXAMINATION

2 BY MS. LIN:

3 Q So we'll start with -- good morning,
4 Mr. Macaulay. We'll start with Exhibit 117. And just
5 so you know, we designated -- we named our exhibits
6 CWF-233, exhibit, and then attached a number. In
7 fact, we have a lot more case numbers than that. This
8 is just a shorthand.

9 So we'll start with CWF-233, Exhibit 117,
10 which is the LID manual. And we're going to be at
11 page 52, which is actually page 62 of the pdf if
12 you're on an electronic version.

13 And, Mr. Macaulay, if you could just let me
14 know when you're there, and that's Chapter 5.

15 A So -- so excuse me, Ms. Lin. So Exhibit 117?

16 Q Correct.

17 A Okay.

18 HEARING EXAMINER VANCIL: Ms. Lin, can
19 I ask you to share screen for that item, please.

20 MS. LIN: Sure.

21 HEARING EXAMINER VANCIL: Some of the
22 larger ones I run into problems opening with the
23 wireless here. So I assume if I'm running into that
24 same issue, others may as well.

25 I assume everyone has received copies of the

1 exhibits at this point, so I feel like we're getting
2 more efficient as the participants get used to the
3 process. If someone is not able to open an exhibit,
4 please let us know and we'll ask to share screen.

5 MS. LIN: And can you let me know, can
6 you see my screen right now?

7 HEARING EXAMINER VANCIL: Not yet.

8 MS. LIN: Okay. We'll see what is
9 happening.

10 MR. FRANKLIN: Can I ask that
11 Mr. Macaulay activate his video.

12 MR. MACAULAY: Is that --

13 MR. FILIPINI: I'll help him with that.

14 MR. FRANKLIN: Thank you.

15 HEARING EXAMINER VANCIL: All right.

16 We have the share screen showing. Thank you, Ms. Lin.

17 And, yes, Mr. Macaulay, you should be visible.

18 MR. MACAULAY: There we go.

19 HEARING EXAMINER VANCIL: Okay. I
20 think we're all set to go. Thank you, Ms. Lin.
21 Please proceed.

22 BY MS. LIN:

23 Q Absolutely. So, Mr. Macaulay, can you see my
24 screen right now?

25 A I've got it up on my own computer.

1 Q Okay. Perfect. And so you see Chapter 5,
2 Assessment Methods; right?

3 A Yes. Let me get my own usable.

4 Q We'll scroll all the way down to the bottom of
5 Chapter 5., and it looks like you are named right here
6 as a contributor; is that right?

7 A Correct.

8 Q And does that mean you helped with developing
9 this content in Chapter 5?

10 A The only part I didn't write is what Ralph
11 Rodriguez included, which was regarding different
12 methodologies other than special benefit studies.

13 Q Okay. But you reviewed this entire content?

14 A Well, I wrote the entire content except for
15 what Ralph Rodriguez wrote.

16 Q Okay. So let's go back up to page 52. And if
17 you're following along in the electronic exhibits that
18 I circulated, they are not highlighted, but this is my
19 version.

20 A I see your version now.

21 Q Okay. So this says: A final special benefit
22 study is an assessment method that documents the
23 proportionate amount of the total LID assessment to be
24 levied on each specially benefited assessable
25 property. The special benefit estimates and resulting

1 recommended assessments are defined to comply with RCW
2 statutes and case law precedent.

3 So when it says special benefit assessments
4 must comply with RCW statutes that means case --
5 sorry. That means state law; is that right?

6 A That's my understanding, yes.

7 Q And do you know which ones?

8 A I'm not an attorney, so, no, I don't
9 specifically -- I've looked at them over the years,
10 but I couldn't cite them sitting here.

11 Q Okay. But you are familiar with them?

12 A Yes.

13 Q And do you know if any of those statutes
14 authorize use of a hypothetical before and a
15 hypothetical after value in order to determine a LID
16 assessment?

17 A I don't -- that is standard appraisal practice
18 which would be normally used in the appraisal of a
19 property. Whether they're specifically stated in the
20 statutes, I do not know.

21 Q Okay. The statutes do address certain
22 appraisal methodologies like the zone and term method;
23 is that correct?

24 A That's correct.

25 Q Do you know whether the RCWs address this

1 particular approach where you have a before
2 hypothetical value and an after hypothetical value?

3 A I don't know if the statutes do. I mean, case
4 law would most likely. I've done -- every formation
5 study I've done over 30 years has been based on a
6 hypothetical condition because the LID isn't built.

7 Q And so when you say case law, do you know --
8 can you point to any cases?

9 A Well, the last one we had was for the City of
10 Edgewood, and that was ruled on by the court of
11 appeals. And the formation of that LID would have
12 been based on the hypothetical.

13 Q And that's a hypothetical before and a
14 hypothetical after?

15 A The after -- the construction was built.

16 Q Oh, okay. So the before values were current
17 values, and the after was based on a hypothetical; is
18 that correct?

19 A No, no. The before values was based on a
20 hypothetical, and the after value, the improvements
21 were constructed.

22 Q I see. So the Edgewood LID, you completed the
23 final study after the elements were already
24 constructed?

25 A Correct.

1 Q Understood. So do you have any examples of
2 LIDs you've worked on where both the before value and
3 the after value are based on hypothetical conditions?

4 A The City of Pasco LID we finalized last year
5 was based on the hypothetical in the after. The LID
6 had not been constructed, and we closed out the LID
7 prior to construction.

8 Then I know the Lake -- Lake Union streetcar,
9 which I did not work on that special benefit study,
10 but that was closed out prior to construction of the
11 improvements.

12 Q And do you know for Pasco -- that's the one
13 you worked on; correct?

14 A That's correct.

15 Q So for Pasco, do you know how far in advance
16 you completed -- what was the time difference between
17 the completion of your final study and completion of
18 construction of the LID improvements that you were
19 looking at?

20 A I don't know if the project has been
21 constructed yet or not, so I think the time frame is
22 two or three years to get the project constructed.

23 Q Do you remember what design levels you were at
24 when you did the final study for Pasco?

25 A I don't recall.

1 Q Do you remember if they were at least at
2 30 percent?

3 A I would imagine so. They were -- as I recall,
4 they were fairly far along.

5 Q Do you know if you've ever done a LID
6 assessment where you've had less than 30 percent
7 designs other than the one at issue here?

8 A We did a -- we did a -- well, the number of
9 feasibilities studies we've done, certainly, have been
10 well below 30 percent. Formation study we did for
11 Port Hadlock UGA, I think some elements of that study
12 were below 30 percent.

13 Q And those feasibility and formation studies
14 occurred before the final study; correct?

15 A Correct. Those LIDs -- well, the Port Hadlock
16 LID did not get formed or has not yet been formed.

17 Q And feasibility is not actually recommending
18 any assessment?

19 A It can. We've used it in the context where
20 the City has used the feasibility for assessment
21 purposes but typically not.

22 Q So have you ever actually determined special
23 benefit assessments based on designs less than
24 30 percent other than the LID at issue here?

25 A Well, like -- in the after situation?

1 Q Yes, correct.

2 A Not that I recall.

3 Q For Lake Union Street, you said you weren't
4 involved in that one. But do you happen to know what
5 the time frame difference was between completion of
6 the final study and completion of the improvements?

7 A Not particularly, no.

8 Q Do you know if it was more than four years?

9 A I honestly don't know.

10 Q Okay. So I'm just going to read out a quote
11 from a Washington Supreme Court case that you may or
12 may not be familiar with. It is Heavens v. King
13 County Rural Library District, 66 Washington 2d 558.

14 It says: All such assessments -- and they're
15 talking about LID assessments -- have one common
16 element. They are for the construction of LID local
17 improvements that are pertinent to specific land and
18 bring a benefit substantially more intense than is
19 yielded to the rest of the municipality.

20 So when it says benefits must, quote, bring a
21 benefit substantially more intense than is yielded to
22 the rest of the municipality, does this suggest that
23 the benefit must be special and not general?

24 A Well, any measurable increase in value in the
25 state of Washington is a special benefit. That's my

1 understanding.

2 Q And so you agree that special benefits must be
3 measurable?

4 A Yes.

5 Q Okay. So that's actually the next sentence in
6 this Washington Supreme Court case. It states: The
7 benefit to the land must be actual, physical, and
8 material, and not merely speculative or conjectural.

9 So you agree it must be measurable and it must
10 be actual; is that right?

11 A Well, measurable creates a dollar amount, and
12 that's an estimate of special benefit.

13 Q And how do you define measurable?

14 A The difference of market value without or
15 before the LID compared to the market value with the
16 LID completed, and if it creates a measurable
17 difference in value, in my professional opinion, then
18 it's special benefit. If it -- if it gets to a point
19 where I don't feel it's measurable, then it becomes
20 more general in nature and not special or specific to
21 an individual property.

22 Q And so you've testified before that in your
23 deposition that that point is at about .25 -- I
24 believe a quarter of a percent is what you said. Is
25 that at a quarter of a percent benefits cease to be

1 special and turn into more of a general nature; is
2 that right?

3 A No. I think you'll find in my deposition that
4 when we got out to Denny we were at .05. We were
5 very, very low, a very low point where when you got on
6 the other side of Denny, we just felt that it wasn't
7 measurable. And in this case it was -- .05 is what I
8 testified to. I think I corrected myself in the
9 deposition.

10 Q Do you know what the lowest special benefit
11 percentage that you calculated in this LID is?

12 A I believe it was .05.

13 Q So if something -- if a property experienced a
14 benefit of .049, it would have been immeasurable; is
15 that right?

16 A When we get to a point -- that's why,
17 oftentimes, when we're looking at boundaries, we're
18 looking at physical elements as well. When you got on
19 the other side of Denny from where our lowest estimate
20 was, it was not measurable. Therefore, it would be
21 something -- it just wouldn't be measurable. It would
22 be zero or there would be no measurable defined
23 benefit there.

24 Q So what about .045?

25 A Again, in this case when we got to the lowest

1 point, anything beyond that was immeasurable, and that
2 would be something -- something that would be zero.
3 It would be -- it just wouldn't be measurable in the
4 marketplace.

5 Q So you've testified that anything lower than
6 .05 is typically not measurable and, therefore, would
7 be categorized by you generally more as a general
8 benefit and not special; is that right?

9 A No. You're misconstruing what I'm saying. In
10 this -- in this certain LID, when we got to the lowest
11 point, I believe it was about .05, and that is the
12 lowest measurable amount of benefit we had. Anything
13 on the other side of Denny from that lowest point was
14 more general in nature rather than special.

15 Q Okay. And I apologize. It seems like we're
16 probably talking past each other. That is essentially
17 what I think I said, but if you want to put it in your
18 words, that's perfectly fine.

19 So if you could -- actually, I'll just scroll.
20 So we'll scroll down to page 58 for those of you who
21 are following, and so page 58 talks about utilizing a
22 special benefit analyst to resolve issues. It talks
23 about making preliminary investigation, recommending a
24 LID boundary.

25 Number three says: Consider general benefits

1 as well as special benefits.

2 So can a property receive both special and
3 general benefits?

4 A Well, general benefits probably accrue to the
5 LID area and extend out to just an unknown amount of
6 area, but what I'm saying here on Item 3 is that I'm
7 talking about -- we're more -- this is more in the
8 context of recommended boundaries where you've got to
9 consider general benefits in the sense where special
10 benefits end. You've got to understand that, that
11 anything beyond that is general benefits. And that's
12 what I'm referring to in line 3 there.

13 Q So just talking about properties within the
14 LID, do any properties within the LID experience both
15 special and general benefits?

16 A Yes. I just -- I think they -- you know,
17 general benefits would include properties within the
18 LID boundary and then extend out to, you know, an
19 undefinable area, an undefinable area. And that's why
20 they're just not measurable by their definition.
21 They're general in nature to the public at large.

22 Q Okay. So did you consider and attempt to
23 establish between general and special benefits within
24 the LID boundary?

25 A You can't. A general benefit is not

1 measurable just by its definition. It benefits the
2 public at large. I've never been asked to do a
3 general benefit study. I don't think it's something
4 that is -- it's not discernable in the marketplace.
5 It benefits the public at large. And where that
6 boundary would extend -- would it stop in Edmonds or
7 Bellevue or Sea-Tac? It's an undefinable area where
8 general benefits would stop or start.

9 Q The next line -- so this line says -- the next
10 highlighted line says: Consideration may also be
11 given to those construction costs related to meeting
12 design standards which may be general benefits as
13 distinct from construction costs emanating from
14 requirements of the LID project.

15 What does this mean?

16 A Well, typically, there may be -- for instance,
17 Alaskan Way is not part of the LID, so it's more
18 general -- it's more general in nature. In that
19 context, it's a right-of-way.

20 So if it -- if it was part of the LID, then I
21 would consider it as part of my analysis just like the
22 viaduct. I mean, if it would have been part of my
23 analysis, I would have considered the benefit to that.
24 So we're just basically saying: If it's -- if it's in
25 the LID project, then you really need to look and see

1 if it's specially benefited -- if the property
2 specially benefited or measurably benefited from that
3 improvement.

4 Q And so what does it mean construction costs
5 related to meeting design standards? What are those
6 design standards?

7 A Well, design standards are just what we're
8 dealing with here, just level of design that the City
9 has the project at, at the time you're doing your
10 analysis.

11 Q Okay. So does this mean that if there were
12 construction costs relating -- relating to meeting
13 basic design standards, those may be general benefits?

14 A No. If they're -- if they're in the LID and
15 to be considered by the -- to be considered by the
16 LID, then you would be looking at them in the context
17 of whether they're measurable or not and create a
18 special benefit. And if they don't create a special
19 benefit, then they'd be more general in nature and not
20 special.

21 So we're just dealing -- I'm just dealing with
22 elements that are funded by LIDs. I'm not dealing
23 with elements that aren't funded by LIDs.

24 Q I'm going to ask a slightly different
25 question. Would construction of the before

1 improvements have given rise to general benefits?

2 A Possibly.

3 Q Are the before improvements -- are those
4 considered construction projects that are related to
5 meeting design standards?

6 A Again, I'm only concerned with the design
7 standards that are focused on the LID and what the
8 property rights that I'm valuing before and after.

9 Q You also testified previously that some of
10 this content needs to be updated. Can you point to
11 exactly what content needs to be updated?

12 A Well, that was a general comment in the sense
13 that this article was written in 2009, and there have
14 been changes over time. And like this project and
15 other projects I've worked on that I just think it
16 would be beneficial to have a more updated version of
17 this study, and we've talked about that over the years
18 with the MRSC. And it just hasn't happened yet, and
19 it would be from the legal standpoint, from the
20 finance standpoint, and, you know, the whole context
21 of the study.

22 Q And so from a legal standpoint, do you know if
23 that comment -- is it due to any actual changes in the
24 law, like in the RCWs?

25 A No, not that I know of. I just think with --

1 I've had a lot more experience since 2009, and it
2 would be beneficial for the reader to understand maybe
3 some different issues that have arisen over the years.
4 You know, the Edgewood case, for instance, dealt a lot
5 with giving property owners due process. And the City
6 of Seattle did a really good job with that as far as
7 outreach and whatnot.

8 And that's one element that comes to mind that
9 would be very good to have in this study just to show
10 that -- and that is one the courts ruled on that --
11 that's a very, very important element to really
12 accentuate when you're doing an LID is to really have
13 a good outreach program.

14 Q Can you think of any other examples of where
15 you think there might be -- updates might be either
16 necessary or helpful?

17 A That's just something that comes to mind. I
18 think just the general restructuring of the comments
19 and adding experiences that I've had in other LIDs
20 would lend a little more substance to the article.

21 Q Okay. So we're going to move on to
22 Exhibit C-18, which is the addenda. I do believe
23 people have been having problems with the addenda, so
24 I'll continue to share screen for this one. Let me
25 see if I can get that up. There we go.

1 Can you see that?

2 A Yes.

3 Q Okay. So for everybody else who maybe can't
4 see my screen, I'm going to be scrolling to page A-1,
5 which is titled "A - LID - No LID." I'll also just
6 note that I'm using the designation C-18, although I
7 was unable to open C-18, so this is just a local copy
8 of the addenda that I pulled off of the online link.

9 So you testified that this section provides a
10 very detailed description of what the before condition
11 would consist of and what the after condition would
12 look like; is that right?

13 A Well, the -- well, the whole purpose of the
14 addenda is to provide a high level of descriptive
15 before and after language and also renderings.

16 Q So scrolling down to page A-3, which I believe
17 you also looked at during your direct testimony, and
18 we'll just use the same examples that you all used.
19 So this is the before description of the rebuilt new
20 surface roadway, and then on page A-3 you get to the
21 after conditions; is that right?

22 A Yes.

23 Q Okay. And it says: In the after condition,
24 all the improvements listed above would remain with
25 the exception of the following.

1 And it looks like there are one, two, three,
2 four, five bullet points here. The first one talks
3 about increasing the caliber of approximately
4 377 street trees up to 4 inches.

5 The second one talks about adding
6 approximately 16 additional street trees.

7 The third one talks about planters and
8 landscaped areas and the fact that the City would
9 upgrade the ground cover and shrub plantings.

10 The fourth one talks about how crosswalks at
11 the intersection of South King Street and Pike Street
12 would be upgraded 6 inches -- 6-inch curbs, sorry, and
13 the intersection would be raised 3 inches.

14 And then the fifth one talks about sidewalks
15 that are immediately adjacent to the east side of
16 Alaskan Way which would be upgraded from scored
17 concrete to exposed aggregate.

18 So can you explain to me -- and this was --
19 you looked at this -- these -- this addenda includes
20 the information you used to understand the before and
21 the after condition; is that right?

22 A Yes. And the property was looked at as an
23 entity, so all six elements were looked at as an
24 entity. We didn't -- we didn't pull elements apart
25 and try to value them separately.

1 Q Understood. But you did -- you did review
2 this; correct?

3 A Yes.

4 Q And so when you reviewed this, what were
5 you -- what was your process for determining what the
6 value add would be due to these types of improvements?

7 A Well, again, we're looking at the LID as one
8 entity, so there are six elements that have been
9 discussed. We're looking at the Promenade
10 improvements. We're looking at the Pike/Pine
11 improvements. We're looking at the Overlook Walk
12 improvements. We're looking at the Union Street
13 connector improvements.

14 And all of these elements are looked at as an
15 entity. And so, again, we're -- we're looking at
16 other similar projects that have similarities to this.
17 None of them are going to be exact, but they have
18 similarities to this in the marketplace. So we're not
19 specifically looking at this as one particular element
20 and saying, okay, how much in value is that language
21 going to increase value? We're looking at the whole
22 picture of the project as one entity.

23 Q Okay. But you did say you reviewed this. So
24 I guess my question is: What did you do with this
25 information, if anything?

1 A Well, it goes to the bigger context of all the
2 other elements that are in the LID.

3 Q So there's nowhere in your report where
4 someone might be able to determine how you looked at
5 each of the after conditions described in the addenda
6 and attributed value to those after conditions -- to
7 specific after conditions?

8 A That was not the scope of the assignment. The
9 scope of the assignment was to look at the project as
10 one -- as one entity and not as six individual LIDs.

11 Q So talking a little bit about valuing
12 everything all together, all six components all
13 together, you've testified that the LID components
14 encompass a variety of projects and improvements, and
15 these include, like you said, the six components. And
16 those include things like open space, walkways,
17 running paths, streetscapes, parks, bike lanes,
18 Overlook Walk, which you've said is unique.

19 Have you ever done a special benefit study
20 where the improvements are so varied?

21 A I'm trying to think of others. This would be
22 at the top of the list of what I can think of. The
23 Tukwila one had a number of components, a new
24 interchange at Klickitat and I-5, arterial street
25 improvements, the parkway-type improvements, elements

1 similar.

2 The Point Ruston project looked at a lot of
3 different variables, utilities, lighting, promenade
4 walkway, things to that nature. So that was -- that
5 had a lot of elements to it before. So this would be
6 at the top of the list of LIDs we've done with a lot
7 of different elements.

8 Q For Tukwila, do you remember how many
9 properties were included in that LID?

10 A I believe there were about 280 or so, included
11 the Westfield Mall, all of the abutting commercial
12 property, and then the industrial property further to
13 the south and then over to the river. And it was a
14 fairly large LID.

15 Q And you mentioned a new interchange and some
16 street improvements, both of which sound to me like
17 street improvements, and then also a parkway. Can you
18 describe the parkway?

19 A Yeah. I believe it was Strander Boulevard.
20 It was just a lot of enhancement to, you know,
21 landscaping and sidewalk improvements and things of
22 that nature.

23 Q And then for Point Ruston, you mentioned
24 utilities and lighting and the promenade walkway. Can
25 you describe what the LID covered with respect to the

1 promenade walkway?

2 A It was a walkway that was required. Point
3 Ruston is right on the water there on Commencement
4 Bay, and it was a walkway that was required as part of
5 the design and construction of the improvements. It
6 was part of the LID.

7 Q And do you remember how many properties were
8 part of that LID?

9 A Point Ruston -- interesting, it was one owner,
10 and then that subsequently has been subdivided into
11 numerous entities.

12 Q And can you explain why you said that this one
13 is at the top of the list with respect to the variety
14 of improvements involved?

15 A Well, just as I mentioned, it's typical in an
16 LID to have a number of elements. This one,
17 obviously, is challenging given the nature of the
18 improvements in a major CBD market. So it just had as
19 many or more elements as a lot of the other LIDs that
20 we've done.

21 Q So when you're treating all six components as
22 one for purposes of analyzing special benefits, does
23 that mean that properties at the northern boundary are
24 essentially also -- part of their assessment includes
25 the cost for improvements for the Pioneer Square

1 improvements, for example?

2 A We don't look at it that way. We just looked
3 at it where it exists in the before and where it
4 exists in the after assuming all of these elements are
5 in place.

6 HEARING EXAMINER VANCIL: Ms. Lin, if
7 you're done with that exhibit, you can take it off
8 share screen.

9 MS. LIN: Oh, I actually have a few
10 more questions about it.

11 HEARING EXAMINER VANCIL: Okay. As
12 long as you're -- as long as you're referencing
13 something on the page, share screen is welcome and
14 invited. But when you stop using the document, being
15 able to see you and the witness more enhanced is
16 preferable.

17 MS. LIN: Sure. I'll actually -- I'll
18 stop sharing, and then I'll reshare when I'm talking
19 about --

20 HEARING EXAMINER VANCIL: That would be
21 preferred. Thank you.

22 MS. LIN: Okay.

23 BY MS. LIN:

24 Q So there's -- sorry. My last question was
25 about -- and so there's nothing -- there's nothing to

1 preclude the use of -- sorry. Let me back up. When
2 you're looking at a particular assessment, that
3 assessment could essentially take into account
4 benefits from all of the six improvements together?

5 A Yes.

6 Q And so properties, let's say, along the
7 southern boundary are being benefited by all six
8 improvements together?

9 A Again, the LID isn't pulled apart so we're not
10 looking at six separate LIDs. So a property at the
11 southern portion would be benefited to the context
12 that it is benefited by the six elements.

13 Q Okay. So those six elements include, let's
14 say, the Pike/Pine improvements?

15 A Well, again, the property -- the LID project
16 is looked at as one entity, so we're just simply
17 looking at the property in its given location in the
18 before and again in the after. And that's why a lot
19 of properties vary in value because they may benefit
20 more or less than other properties depending on where
21 they're at within the LID boundary area.

22 Q Is there anyone in your report where one can
23 see how you valued any of the specific components of
24 the LID improvements like those after that bullet list
25 of after conditions that I showed you?

1 A No. Again, we didn't pull the LID apart in
2 the six elements. We looked at it as one entity.

3 Q So I'm going to reshare screens. Sorry. So
4 we're still on the addenda here, and I'm going to go
5 to page 29 of the pdf, which is actually page A-26.
6 So what is this a picture of?

7 And just to give you context, this is one of
8 the first, I believe -- it's not the first one. It's
9 one of the renderings. What is this a picture of?

10 A Yeah. I can't tell from the exhibit there
11 what you're -- if you're --

12 Q Just what is this showing?

13 A It's showing Alaskan Way.

14 Q Okay. And did you review this rendering?

15 A Yes.

16 Q Okay. And then what is this one showing?

17 A Again, Alaskan Way.

18 Q And then going back up to A-26, is this
19 showing Alaskan Way in the before condition?

20 A Yeah, I can't see -- I can't see on your
21 screen there whether that is the before condition.

22 Q Okay. Right here it says the following -- the
23 following two slides depict one view of Alaskan Way in
24 the east-west sections of right-of-way between Yesler
25 and Marion in the before no LID and after LID

1 conditions; is that right?

2 A Yes.

3 Q Okay. So scrolling back down, so this is the
4 before condition, is that right, on A-26?

5 A Yes.

6 Q And this is the after condition on A-27?

7 A Yes.

8 Q And you reviewed these in order to help you
9 determine special benefits; is that right?

10 A Yeah. They were -- they were created to help
11 have a visual aid in appraising the property in the
12 before and after.

13 Q And can you describe how you used these
14 renderings?

15 A Yeah. Just for general observation to help
16 visually see what the differences would be.

17 Q And can you describe what the difference is
18 between these two renderings that you saw that you
19 believe created value for the properties in the LID?
20 And I'll just -- there we go.

21 A Sure. In the after you've got a promenade
22 walkway and no driving area up near the Great Wheel
23 and Pier 55/56. You can't see it from that slide, but
24 the Overlook Walk is in the background. And Pier 58,
25 Waterfront Park, and other amenities to the right

1 would be the start of Pioneer Square improvements.

2 Q Yeah. So I do understand -- and we'll --
3 there are renderings of the Overlook Walk and the
4 Pioneer Square improvements. I'm asking just, you
5 know, you reviewed these renderings as well. And I'm
6 wondering did you see any value lift from between
7 these two conditions? Any basis for a value lift
8 between these two conditions?

9 A Yes.

10 Q And what was the basis between these two?

11 A Well, I just think esthetically and from a
12 market appeal basis, the after condition is an
13 improvement to the before condition.

14 Q And why is it an improvement?

15 A Easier pedestrian access, more trees. You
16 can't see a lot of the running paths and things of
17 that nature. That was the difficulty they had trying
18 to recreate all of the amenities in an aerial like
19 that. It's difficult to capture all of the attributes
20 of the LID looking at this, which I would imagine this
21 is the type of aerial you would use to -- it's hard to
22 really depict all of the elements of the Promenade
23 area looking at an aerial like this, but it does help
24 as an aid.

25 Again, it doesn't show a lot of the walkways,

1 the bike paths and things of that nature that would
2 help improve the Promenade appeal.

3 Q Well, it does show some walkways right here,
4 but those look to be the same; is that right? And
5 here's another one, but that also looks to be the
6 same.

7 A No. There's walking/jogging paths and whatnot
8 that aren't shown. You just can't visually see them.

9 Q We'll go to page 34 of the pdf, which is page
10 A-31 of the addenda. So here is another rendering,
11 and I believe now we're further north, correct, on
12 Alaskan Way?

13 A Yes.

14 Q Okay. And this is the before on A-31, and
15 this is also the before on A-31 giving some
16 measurements. And then this is the after on A-33 and
17 then the after on A-34 giving some measurements; is
18 that right?

19 A Uh-huh, yes.

20 Q And so I have similar questions here. So just
21 I'll sort of click through those one more time. So
22 before, before, after, after.

23 Can you just tell me: When you reviewed this
24 rendering, what was the basis for your belief that
25 this particular area would contribute a value lift of

1 properties within the LID?

2 A Again, the vehicle access component is
3 removed. You've got a lot of open space and walkway
4 area that, again, it's hard to discern by looking at
5 this aerial and this angle, just much greater appeal
6 through the Promenade and the artwork and other
7 elements that will really set it apart from the
8 before.

9 Again, this isn't one of the better views.
10 There's a lot of other aerials that you can look at
11 that more clearly depict other renderings that depict
12 a better character what those differences are.

13 Q And I'll ask you to point me to those
14 renderings in a moment. But if we could just -- you
15 talked a little bit about vehicle and pedestrian
16 access. So if you look at the measurement here, it
17 looks like pedestrian stops at about 24 feet, and
18 then, again, there's 3 feet over here. In the after
19 condition, it's 24 feet and I guess -- so is that what
20 you're talking about right here? Is this one of the
21 bases for the benefit?

22 A Well, more so in the context thereto, there
23 are bike lanes. There's jogging paths and things of
24 that nature that aren't there in the before that are
25 very appealing in the marketplace.

1 Q Okay. And would you like to point me to a
2 rendering that you feel like helped -- really helped
3 inform your understanding of the specifics -- the
4 specific benefits that would arise from these
5 improvements?

6 A Well, I think all of the renderings do to some
7 context. It's just when you're looking at different
8 elevations and different angles, it's difficult to
9 really capture the before and after. So I think you
10 really need to go through all of the renderings, and
11 then there were a number of other just individual
12 points of reference that may have not got -- all of
13 them gotten into the addenda that have been done
14 over -- over time and looking at various other
15 elements of the project.

16 So those would be in our files, our backup
17 files, but we had -- we had many, many different
18 renderings looking at a lot of the different
19 components of the LID from different angles and
20 whatnot that assisted us in our analysis.

21 Q Okay. I'm going to stop sharing.

22 Unfortunately, we don't have time to go
23 through every rendering in the addenda right now, so
24 we'll move on. We're going to switch topics a little
25 bit.

1 Typically, when you're conducting an appraisal
2 based on a hypothetical condition, do you explain the
3 difference between the current condition and the
4 hypothetical condition?

5 A Well, in this case we do. We recognize that
6 the viaduct is removed and that the Alaskan Way is
7 built. It's summarized in the addenda there as well.

8 Q And then do you explain how that difference
9 produces a difference in valuation between, let's say,
10 the current and the before?

11 A Well, when you say the current, for us in this
12 context the scope of our analysis was to do the before
13 analysis. So we did a before analysis based on the
14 hypothetical conditions that were set forth in the
15 scope of services for us to consider. We did not
16 do -- we didn't do a current value and then do a
17 before hypothetical value. That wasn't the scope of
18 the services that we were doing.

19 Q So it's correct that your report -- your
20 report states that you did not consider any
21 enhancement from removal of the viaduct as part of the
22 special benefit; correct?

23 A Both in the before and after the viaduct was
24 removed, yes.

25 Q And you also didn't consider any enhancement

1 from the before street improvements that would have
2 had to occur without the LID; correct?

3 A We assumed that Alaskan Way was rebuilt in the
4 before condition, yes.

5 Q Okay. So can we actually go through some of
6 those before street improvements? You talked about
7 Alaskan Way. So one of them is the new
8 Alaskan/Elliott Way surface street. What is that?
9 Can you describe that?

10 A The new Elliott Way?

11 Q Uh-huh?

12 A Yeah. The street that will extend off up into
13 the Belltown from the current Alaskan Way.

14 Q And then the next one is a new and improved
15 seawall. Can you explain what that one is?

16 A Well, the seawall construction was already
17 largely completed or completed in the before
18 condition, so we assumed that it would be done both in
19 the before and the after.

20 Q And then another one is the State Route 99
21 tunnel. Can you describe that one?

22 A Yeah. That's, obviously, the tunnel that was
23 done under 99 that was completed to start this
24 project.

25 Q And then the Pier 62 rebuild, can you explain

1 that one?

2 A The Pier 62 rebuild would be an upgrade to the
3 existing structure.

4 Q And that's forthcoming?

5 A Yes. Well, it's planned.

6 Q Right. And the Bell Street improvements, can
7 you explain that one?

8 A The Bell Street improvements were some
9 elements up where Elliott Way meets Bell Street in
10 Belltown, enhanced landscaping, streetscape setting
11 type of elements.

12 Q Okay. And then there's these parking spaces
13 that WashDOT planned fronting the piers of Pike and
14 Madison, is that right, as part of the before
15 improvements?

16 A Correct.

17 Q As a shorthand, I'll just be referring to all
18 of these together as either before improvements or
19 WashDOT improvements going forward.

20 A Okay.

21 Q So these are all improvements assumed to be
22 complete in the before scenario; correct?

23 A Yes.

24 Q Is there any market value enhancement from
25 viaduct removal and the WashDOT improvements included

1 in the before value?

2 A Again, our before value is just looking at
3 the -- how the market would buy and sell property, how
4 it would rent property from an income standpoint in
5 the before condition assuming the viaduct is gone. So
6 the viaduct is already gone in our analysis.

7 Q Do you agree that the viaduct removal and the
8 WashDOT improvements have some estimable market value
9 contribution to each of the parcels?

10 A If we were to have been asked as part of the
11 scope of our services to estimate the value before and
12 after the viaduct removal, then, yes, there would have
13 been enhancement to the viaduct removal.

14 Q And there's some enhancement due also to the
15 WashDOT improvements; is that right?

16 A Yes. I mean, having the new road rebuilt is a
17 positive amenity.

18 Q So can I infer that you used some way to
19 account for the increase in value due to the viaduct
20 removal and the WashDOT improvements across the LID in
21 order to come to your before values?

22 A That was the basis for our before value, that
23 the viaduct was removed and the Alaskan Way was
24 rebuilt.

25 Q And is there anywhere in the report where I

1 can see where you went from current values to the
2 before values accounting for this increase in value
3 due to the viaduct removal and the WashDOT
4 improvements?

5 A No. As I previously stated, that wasn't the
6 scope of our services. We didn't do two independent
7 values in the before. We just did what we were hired
8 to do, which was just value the property assuming the
9 viaduct is gone and Alaskan Way was rebuilt.

10 Q Do you believe that the before value for each
11 parcel is actually higher than actual current values
12 as of October 2019 due to the hypothetical completion
13 of the WashDOT improvements and the removal of the
14 viaduct?

15 A Well, as of -- as of October 1 under the
16 conditions that we're looking at, if the viaduct were
17 still there, which, again, isn't part of what we
18 looked at, there would be some impact to the property.
19 That's just not something we considered with the
20 viaduct was gone, what would the market sell for?
21 What would the market rent for? As you do in an
22 analysis of the after, what are the benefits of these
23 LID improvements?

24 Q And that impact is that before values are
25 greater than the current values?

1 A Well, we didn't estimate the current value.
2 Again, if that was a separate scope of services, we
3 would have been looking at it. Certainly, if you take
4 a view amenity like that and really do a before and
5 after in that context, there would be a change in
6 value, certainly, under that scope of services. We're
7 looking at it just in the before condition as the
8 assignment required us to do.

9 Q So you testified in your direct testimony
10 regarding Brian O'Connor's conclusion that ABS
11 Valuation's before value for Harborsteps was
12 overstated by 88 million. That's what Brian O'Connor
13 believed.

14 And you suggested that this could be because
15 Mr. O'Connor was looking at current income and numbers
16 whereas ABS was accounting for removal of the viaduct
17 and the WashDOT improvements. Do you remember that?

18 A Yes. Yes, so our rent -- I don't know -- he
19 provided no market evidence to support what he's
20 saying. He's just doing an appraisal review, but I
21 don't know what the -- what I was saying is I don't
22 know what their current income is and whether it's
23 accounted for the viaduct being removed or not.

24 Q So in your analysis, how much value did the
25 WashDOT improvements and removal of the viaduct add to

1 that property's value, if not 88 million?

2 A Again, it was just done on a parcel-by-parcel
3 basis. We didn't -- we just looked at what we felt
4 rent would be and what sales would be under that
5 context. We didn't look at a before and after type of
6 context.

7 Q Right. And in that parcel -- I'm actually
8 asking specifically only about that parcel. So in
9 that parcel, the Harborsteps property, how much value
10 did the WashDOT improvement and the removal of the
11 viaduct add to that property's current value, if not
12 88 million?

13 A Well, I don't know. All I'm saying is I don't
14 know what his income inferred, and so he's saying I'm
15 wrong. And I just -- I don't -- he doesn't even
16 provide any evidence to prove that, but I'm saying
17 that our valuation was looking at it under a different
18 condition perhaps than what the income that he has or
19 is comparing to considers.

20 Q Do you not know because you don't remember or
21 do you not know because that analysis is not -- does
22 not exist?

23 A Well, I didn't -- again, I didn't do a current
24 before and after value of the viaduct gone. That
25 wasn't the scope of my services.

1 Q Sticking with the Harborsteps property, you
2 also testified in your direct testimony that that
3 property being about four to five blocks from the
4 Overlook Walk would provide some connectivity benefit
5 to this property. Do you recall that?

6 A Yes.

7 Q Okay. So what exactly is the additional
8 benefit from connectivity above and beyond this
9 property's existing access to the waterfront via the
10 Harborsteps?

11 A Well, if you were just down on the waterfront,
12 you would have the additional connectivity of Union
13 Street connector. The property does have good
14 connectivity to the waterfront now, but also the
15 Promenade will provide a good connectivity point,
16 easier pedestrian access just throughout the
17 waterfront area.

18 Q Did you value this existing connection,
19 this -- the actual Harborsteps, how was that existing
20 connection valued in the before condition as compared
21 with the after condition?

22 A Well, again, each property is looked at
23 individually. We value the property in the before and
24 then looking at how an investor would look at it in
25 the after having a \$364 million improvement project

1 fairly close in proximity to it with different
2 connectivity points, easier pedestrian access up and
3 down the waterfront, somewhat close proximity to the
4 Overlook Walk and really unique amenities, we looked
5 at, again, the property assuming all those amenities
6 were done and made an estimate of value with that in
7 place.

8 Q So (inaudible) it's a parcel-by-parcel
9 approach. Did you assess whether Harborsteps would
10 increase their rents because tenants would have a
11 second alternative waterfront access several blocks to
12 the north?

13 A Well, it was one of the elements we would have
14 looked at in the context of the six -- the six
15 elements. If they had a little bit better
16 connectivity, just more desirability in the
17 marketplace, better market appeal from an investment
18 standpoint to an investor with, again, this type of
19 improvement done in the after.

20 So we looked at any -- any relative
21 market-based consideration that would have been given
22 by an investor, by a buyer or seller in the
23 marketplace in the after.

24 Q Did you consider whether it's potentially a
25 disamenity that Overlook Walk and the other points of

1 connection might draw people away from Harborsteps
2 retail?

3 A No. I think it will -- I think the whole flow
4 of more people coming into the Waterfront will be the
5 opposite, that it will help retail components like
6 that.

7 Q And where is this analysis, this specific
8 connectivity analysis, with respect to the Harborsteps
9 in your report?

10 A Well, again, we looked at each party
11 individually and prepared a worksheet. So we don't
12 prepare individual appraisal reports where we go into
13 an extensive written summary of all these factors.
14 It's just not cost effective to do that in the context
15 of a mass appraisal assignment.

16 Q So the worksheets do explain the basis for
17 your belief that connectivity will be -- will increase
18 the value of Harborsteps property?

19 A Connectivity is one of the components that I
20 think the market would look at. The market is going
21 to look at just general market appeal similar to other
22 studies we looked at in other markets. Investors look
23 at the long-term, and just their general investment
24 decision would consider it to be an improvement from
25 the before condition.

1 MS. LIN: Examiner Vancil, we're at
2 10:05. I just want to be mindful of the time. Would
3 you like to take a break?

4 HEARING EXAMINER VANCIL: I'll let you
5 know when we're ready to take a break. You don't
6 necessarily need to ever stop for that. So just keep
7 that in mind, everyone else. When you're asking, you
8 don't need to ask me.

9 Since you have stopped and asked, then we will
10 take a break now, but I'll -- I'm keeping track of it.
11 So we'll take a break and take -- return at 10:20,
12 15-minute break. Thank you.

13 (A break was taken from 10:05 a.m. to
14 10:21 a.m.)

15 HEARING EXAMINER VANCIL: We will
16 return to the record with Mr. Macaulay on cross.

17 BY MS. LIN:

18 Q Okay. So just picking up where we left off,
19 so you did not do any analysis to determine the effect
20 on value of properties in the LID specifically due to
21 removal of the viaduct; is that right?

22 A Correct. Yeah, we did no before and after
23 analysis of the viaduct removal.

24 Q And there's no separate analysis of any value
25 lift due to the project's assumed completed in the

1 before condition?

2 A The assumed completed in the before condition
3 is just the basis for which we valued the property in
4 the before condition.

5 Q But there's no separate analysis of the value
6 due to those before projects?

7 A That wasn't the scope of our services.

8 Q Have you or anyone on your team reviewed any
9 designs or plans of the before improvements?

10 A Well, the before condition improvements are
11 outlined in the addenda and summarized in the report.

12 Q Okay. And so those are the designs and plans
13 that you reviewed?

14 A Yes.

15 Q So you didn't do any of these separate
16 analyses of the effect of the viaduct or the before
17 improvements. And this is a case even though your
18 before values are not current market values. They are
19 current market values as of October 2019 plus the
20 value of the WashDOT improvements and removal of the
21 viaduct; is that right?

22 A That defines the before condition, yes.

23 Q Okay. Why didn't you just use current values
24 for your before condition so that you could just use
25 market data, and then you could have made the after

1 condition the LID improvements minus the WashDOT
2 improvements?

3 A That wasn't the scope of our services, and
4 that's not how we've ever done anything. We do it the
5 way it's outlined in our scope of services.

6 Q Wouldn't that be more consistent with your
7 approach with the other LIDs where you've got an
8 actual in one -- in either the before or the after and
9 then a hypothetical condition in the after, let's say?

10 A No. I mean, each project we do is different,
11 and the scope of services is different. So we're just
12 simply complying with the client's request no matter
13 whatever -- whatever the context of the assignment is.

14 Q If you had used current values and -- as your
15 before value and then the LID improvements minus the
16 WashDOT improvements for your after values, do you
17 have any sense of what that percentage would have
18 been?

19 A No. That's not something we did.

20 Q You testified that one of the differences
21 between a direct appraisal and a mass appraisal is
22 that the level of detail in a direct appraisal is
23 typically greater; is that right?

24 A There's more verbiage, more discussion -- more
25 discussion of your analysis, things of that nature.

1 Q And you explained that a parcel-by-parcel
2 direct appraisal would not have been economically
3 feasible here; right?

4 A Well, most clients probably would have looked
5 at it that way. That was my thought process. Most
6 LIDs we do or all LIDs we do have been done on a mass
7 appraisal basis. One of the reasons for that is that
8 it's very time-consuming to do individual reports on
9 each property and considerably more expensive.

10 Q Is it more time-consuming because the process
11 for a direct appraisal is more in-depth?

12 A It's not -- the same amount of thought process
13 would go into it. It's just you have to write it out
14 in the context of a report, and, typically, in an LID,
15 it's done through oral examination, cross-examination,
16 if property owners have questions.

17 Q So for mass appraisal, do you typically have
18 the same level of data and information regarding a
19 single property that you would have if you were doing
20 a single property appraisal for that particular
21 property?

22 A Sometimes; sometimes not. You know, in this
23 case property owners had the ability to provide us any
24 information that they wanted us to consider, and we
25 would have considered it. If not, we base it on the

1 best market information available.

2 Typically, when you're hired by a specific
3 property owner, you're going to get more -- more
4 detail. They'll give you their income analysis or
5 their current rent and expenses and things of that
6 nature. And in this context, a lot of the property
7 owners didn't have that, so we have to use a more
8 market standard base approach.

9 Q And as between income information from a
10 property owner who has asked you to do a direct
11 appraisal and market data, which one of those would
12 typically result in a more accurate market valuation?

13 A Well, if we had actual information from the
14 property owner, it's helpful, obviously. Again, it
15 depends on the assumptions of the analysis you're
16 making, both in the before and after in this case,
17 but, you know, it certainly would be helpful.

18 Q And so, for example, also with a direct
19 appraisal, you might do an interior inspection, but
20 you didn't do that for all the properties in the LID;
21 is that right?

22 A That's correct. Just an exterior inspection,
23 although, obviously, I've been in a number of
24 properties over the years, especially in the --

25 Q Sorry. Continue.

1 A Go ahead.

2 Q And, similarly, for residential condos, if you
3 were doing a direct appraisal, you might actually go
4 and view the individual condo unit, but here you
5 didn't visit any individual condo units; is that
6 right?

7 A That's correct. We based our information on
8 the King County Assessor's records.

9 Q And you've testified that for certain
10 properties you didn't actually have all of the
11 relevant information that would allow you to make an
12 accurate valuation. For example, with United Way and
13 Century Square retail, both of which have development
14 restrictions; is that right?

15 A Yeah. We had a list -- I thought we had all
16 of the properties that had sold their development
17 rights. Those two we either missed or we didn't catch
18 in our research that they had sold their development
19 rights. So we would need to correct our benefit
20 estimate for those properties.

21 Q We also presented evidence that for the Helios
22 apartment complex -- and that's property E-044-001 --
23 you used the incorrect distribution of unit types
24 which resulted in an undercount of studios. And
25 because studios tend to rent for a lower rate, your

1 analysis overcounted the more expensive larger units.
2 If this is true, should your before valuation and
3 should your special benefit analysis change for that
4 property as well?

5 A If that's factual information, I've been
6 provided nothing to support that -- what you just
7 said, but if that's factual information, then, yes, we
8 should go back and look at it as factual.

9 Q And have you reviewed John Gordon's analysis
10 regarding hotels?

11 A Yes. I read through his reports.

12 Q And so you're aware that the average room rate
13 information you used for hotels varies from actual
14 room rates; is that right?

15 A That's what he reported.

16 Q Okay. And he had access to actual room rate
17 information. And are you aware that he had access to
18 actual room rate information?

19 A That's what he's indicated, yes.

20 Q Any reason to doubt that he did?

21 A Other than I haven't seen it.

22 Q And his use of actual room rate information
23 led to before values that were significantly less --
24 sorry. Your use of -- that were significantly -- let
25 me rephrase this.

1 His use of actual room rate information led to
2 before values that were significantly less than what
3 you concluded; is that right?

4 A Typically, that appears to be the case, yes.

5 Q Okay. I'm actually going to switch gears a
6 little bit right now and pull up Exhibit 130, and this
7 one was sent out later in the evening last night. So
8 I will go ahead and share it if that would be helpful.

9 A That would be helpful.

10 Q Okay. So this is Exhibit 130. Is this a
11 typical assessment notice?

12 A They vary. It's not something I typically get
13 involved with.

14 Q Does it appear to be an assessment notice
15 related to the Waterfront LID?

16 A Yes.

17 Q And are you aware that the state statutes
18 requiring notice of the assessment roll hearing to be
19 sent to each property owner, quote, for each item of
20 property described?

21 A I'm not aware of what you're referring to. My
22 understanding --

23 Q I'm referring to -- sorry.

24 A My understanding is that each -- under the
25 state law that each tax account number needs to have a

1 special benefit and, therefore, an assessment amount.

2 Q Okay. It needs to have notice of that
3 assessment amount as well?

4 A I believe so, yes.

5 Q Okay. And on the third page of this document,
6 there's a box that says: Waterfront LID Number 6751
7 proposed final assessment. And this is the proposed
8 final assessment for the identified King County parcel
9 identification number; is that right?

10 A Yes.

11 Q And then the first sentence after the box
12 says: As shown on the tax rolls of the King County
13 Treasurer, you are the owner or reputed owner of the
14 described lot, tract, or parcel of land listed above
15 and located in the City of Seattle, Washington. Your
16 proposed final assessment is the amount of the cost
17 and expense of the Waterfront LID improvements to be
18 borne by and assessed against your property listed
19 above.

20 The assessment notices are, again, specific
21 parcels of real property carrying a specific King
22 County parcel number; is that right?

23 A Correct. As I said, under state statutes, you
24 know, all the LIDs I've done over the years that each
25 property that has a tax account number needs to have a

1 special benefit and assessment amount.

2 Q Do most -- do most businesses have a separate
3 parcel number for personal property, like IT -- I'm
4 talking right now about commercial properties.

5 A Business -- business value or personal
6 property value in the context of that nature, that's
7 not part of what we would typically value for the real
8 estate would just be considered within the tax account
9 number.

10 Q Does this notice -- does this notice include
11 notice of personal property being assessed?

12 A I don't know. I don't know what property
13 you're referring to.

14 Q Well, I'll point you right now to, first of
15 all, this language that says: The described lot,
16 tract, or parcel of land. And just so you know, this
17 is the Seattle Marriott.

18 A Okay.

19 Q So I'll ask the question again. So -- in case
20 you have a different answer. Does this notice include
21 notice of personal property being assessed?

22 A The only information (inaudible) was relative
23 to our special benefit estimates that would reflect
24 the fee simple interest and how the market buys and
25 sells property.

1 We did not send out any other information on
2 any other thing other than what was in the King County
3 Assessor's records identifying the particular
4 property, and that consisted of the real property of
5 that particular property.

6 Q Okay. Sorry. Put another way, does that mean
7 the ABS Valuation valued the land and real estate
8 improvements for purposes of determining special
9 benefits for this parcel?

10 A Based on the King County Assessor's
11 information, yes.

12 Q Okay. So I've got to redo my screens. And so
13 for the Marriott and for the rest of the hotels, ABS
14 Valuation was not including personal property; is that
15 right?

16 A Well, they typically buy and sell in the
17 marketplace with their furnitures, fixtures, and
18 equipment, so it was both in the before and after that
19 would have been considered in our analysis. In our
20 sales sheet when we had the information available, we
21 separated out the personal property from the real
22 property, but, oftentimes, certain properties function
23 differently than others. And that's just the market
24 norm with hotels.

25 Q So when you say it was considered in your

1 analysis, does that mean you separated out personal
2 property and did not include it in your before value,
3 or you separated out personal property and also
4 included it in your before value?

5 A Because hotels typically sell with personal
6 property included, it was considered in our analysis.
7 So the sale price and how the market functions
8 typically includes the personal property, so that
9 was -- we were just reflecting the market, and that
10 was included in our analysis, both in the before and
11 after.

12 Q And this was the case even though the notices
13 of assessment did not specify that personal property
14 would be being -- would be assessed; is that right?

15 A We're looking at it as part of the fee simple
16 interest in the context of that's how the market
17 functions. So any personal property would have been
18 included in our tax account number that was provided
19 to the City for purposes of mailing out notices.

20 Q So your final study states and you've
21 explained that an extraordinary assumption is
22 something that, if false, could alter your opinion of
23 actual market value; is that right?

24 A Yes.

25 Q And then you testified in your direct

1 testimony that an extraordinary assumption here is
2 that the before and after projects are complete as of
3 October 2019?

4 A That's correct.

5 Q But this is false; correct? Because the
6 before and after projects are not complete as of
7 October 2019?

8 A Well, it's based on a hypothetical condition
9 that they're completed. So it's just standard
10 practice to report to the reader that, I think, in the
11 context that if some elements of the project were not
12 to be included or were never done or were whatnot that
13 that would alter our opinion. The basis of our
14 analysis is done on a hypothetical condition.

15 Q So is that a hypothetical condition or an
16 extraordinary assumption?

17 A They're kind of interchangeable, but it's an
18 assumption of our analysis that's inherent in our
19 study.

20 Q What is the difference between an
21 extraordinary assumption and a hypothetical condition?

22 A They're similar. I'd have to look at the
23 definition to give you a defined answer, but they're
24 very similar when a hypothetical is -- or the
25 extraordinary deals with more from a legal nature.

1 And I'm just drawing a blank as to define the
2 hypothetical as I sit here.

3 Q And this extraordinary assumption and
4 hypothetical condition forms the basis of your entire
5 analysis; right? The fact that both the before and
6 the after projects are complete as of October 2019?

7 A That's correct.

8 Q But, in fact, neither of these -- neither of
9 these projects are complete as of October 2019?
10 Neither of the conditions. Sorry.

11 A That's correct. We're assuming they are for
12 purposes of our analysis.

13 Q And so by assuming that the hypothetical
14 before and after projects are all complete as of
15 October 2019, you don't have to consider a number of
16 development impacts and issues and risks; right?

17 A We would assume they would be completed and
18 those elements would have been taken care of. They
19 would have been approved.

20 Q For example, you don't have to consider
21 project delays?

22 A Correct. We assume that the project is done
23 as of that date and time.

24 Q And you'd assume that all project components
25 would obtain all necessary permits without any

1 required changes or mitigation; right?

2 A It would be in our assumption, yes.

3 Q And part of that assumption also is that the
4 design of the LID components are not going to
5 materially change for any other reason; right?

6 A When we -- when we were working on getting to
7 the level where I felt in my judgment we had enough
8 information, the analysis based on that would be the
9 minimum that would be done. So if they changed the
10 project and added more, we're just looking at the bare
11 minimum of what would be done based on those after
12 conditions.

13 Q And for most of the projects, that bare
14 minimum was about -- was over 30 percent; right?

15 A Yes. I think the -- I think the Pike Place
16 Market -- excuse me. The Pioneer Square improvements
17 and the Pike/Pine corridor improvements were slightly
18 less than 30 percent.

19 Q And for those slightly less than 30 percent
20 design, you testified that you were able to proceed
21 anyway because, in discussions with the City, you were
22 assured that -- you received some sort of assurances.
23 Can you describe those assurances?

24 A Well, we were assured that at a bare minimum
25 of what was described would be constructed.

1 Q And what was described is something less than
2 30 percent?

3 A Yes. But I felt, given review of what was
4 done and in talking to them, that I had enough
5 information to proceed to finalize my analysis.

6 Q Typically, do you wait for a project to reach
7 a 30 percent design milestone?

8 A It's desirable. It depends. Most of the time
9 we're doing these types of analysis, it involves the
10 formation process and not both the before and after --
11 or excuse me. It doesn't typically involve the after
12 condition, so this is unique in that aspect.

13 Q Why didn't you just -- if there was just
14 only -- just two components that were almost at
15 30 percent design, why didn't you just wait for those
16 to be -- to reach 30 percent design?

17 A Just working with the City, they had some time
18 elements. I think they wanted to get moving ahead
19 with the project. I felt that I was at a level of
20 understanding and design that it was reasonable at
21 that point in time to move ahead so they could start
22 their process. And they had provided me enough
23 information where I was comfortable to finish the
24 study, and then they could continue to move forward
25 with the project.

1 Q So did the City's timeline have some impact on
2 your choice of a date of a valuation?

3 A It was something that was talked about. I
4 felt that I had sufficient information to do my work.
5 We had looked at trying to get the study done at an
6 earlier date in time. So this was a date in time that
7 I felt I had enough information to move forward, and
8 the City then could move forward with their end of
9 finalizing the LID assessments.

10 Q Going back to the hypothetical assumption that
11 projects both before and after are complete as of
12 October 2019, part of that assumption also is that
13 budget issues will not affect the timeline or delivery
14 of the LID improvements because they're all complete
15 as of October 2019; is that right?

16 A Yes. I think that was one of the main
17 appealing points to property owners is that the amount
18 of assessment was capped. So if they would have
19 waited until 2024 to finish the project and there was
20 a huge cost overrun, that that wasn't going to be
21 assessed against the property owners.

22 It took a lot of risk out of any equation for
23 property owners to be -- because the City could assess
24 up to 100 percent of the benefit amount, it capped the
25 amount of assessment, and any cost overruns wouldn't

1 be considered.

2 Q And I'll ask you a little bit about that cap
3 and some cost overruns, but I'll finish this -- a few
4 other questions on this topic.

5 So another assumption that goes along with the
6 fact that everything is complete as of October 2019
7 are there aren't going to be any major economic
8 disruptions that affect funding or schedules for the
9 improvements; correct?

10 A Sorry. Ms. Lin, could you repeat that.

11 Q Sure. Another assumption that goes along with
12 your hypothetical assumption is that there aren't
13 going to be any major economic disruptions that might
14 affect the funding or schedule for the improvements;
15 is that right?

16 A That would be correct. We would assume that
17 the project is done both -- in the after situation,
18 the project would be done.

19 Q All right. And then going back to your
20 testimony, and your final study states that if
21 extraordinary assumptions are false, they could alter
22 your opinion of actual market value. So if any of
23 these assumptions prove incorrect, would your opinion
24 of market value need to be revised --

25 A Yes.

1 Q -- for any of the parcels?

2 A Yes, very well could. I mean, if one of the
3 elements wasn't completed, then as I've stated, the
4 City would need to readjust their estimates of
5 benefit.

6 Q And that would also change your analysis of
7 special benefit?

8 A Yes. Most likely, yes.

9 Q So turning to hypothetical conditions, which
10 you've said -- which you've explained there's some
11 overlap in that you have the same hypothetical
12 condition here which is that the before and after
13 projects are complete as of October 2019. In your
14 final study, it says that a hypothetical condition is
15 that which is contrary to what exists. Is that your
16 understanding?

17 A Yes.

18 Q Okay. So, in fact, there are no LID projects
19 that are, in fact, complete?

20 A Correct.

21 Q If the LID improvements are not built, do you
22 know which of the WashDOT before improvements --
23 sorry.

24 If the LID improvements are built, do you know
25 which of the WashDOT before improvements will not be

1 built? Because there is some overlap; right? Some of
2 the before improvements are going to be constructed no
3 matter what. And so I'm wondering which of the
4 ones -- which of the WashDOT before improvements do
5 not occur if the LID improvements are built?

6 A Well, I just looked at it in the before that
7 Alaskan Way, Elliott Way, and the Railroad Walk from
8 South King to CenturyLink field area there would be
9 constructed both before and after the LID.

10 Q I see. Okay.

11 Okay. But -- but, again, none of the projects
12 are actually complete right now. So is any property
13 owner, in fact, receiving any special benefits right
14 now?

15 A Well, the LID has been formed, so there could
16 be some anticipation in sales out there in the market
17 that they're aware of the LID improvements and may
18 have factored into their purchase decision if they
19 bought the property near or after the LID formation.

20 Q But tourists are not coming in larger numbers
21 in anticipation of the LID improvements; is that
22 right?

23 A As of the valuation date?

24 Q Correct.

25 A Well, again, we're assuming that it is done,

1 so it would have some influence on the tourism market.

2 Q Right. But I'm actually asking you right now
3 in reality, putting aside assumptions, are tourists
4 coming in larger numbers due to that anticipated LID
5 improvements to be delivered in 2024?

6 A Not right now, no.

7 Q And are hotels charging higher rates because
8 of those anticipated LID improvements?

9 A Again, it's irrelevant to my analysis because
10 I'm assuming the project completed as of October 1.

11 Q I understand. I'm asking you to set aside the
12 hypothetical assumption for a moment here.

13 A If you set aside the hypothetical conditions,
14 then the market is where it's at. The LID has been
15 formed, and the Waterfront is as it currently exists.
16 And so whatever the market would air in that
17 condition, that's what the market would reflect.

18 Q And as an appraiser in the Seattle market,
19 have you seen any increases due to anticipated --
20 anticipated -- the anticipated LID improvements in
21 2024 in either rents or hotel rates or property value,
22 sales specifically -- yeah, in anticipation of the LID
23 improvements in 2024?

24 A Well, again, I am valuing those project
25 elements as a different date in time, not 2024. So I

1 can't answer that because we're not in 2024 yet.

2 Q I'm asking currently as an appraiser who works
3 in the Seattle market currently, have you seen any
4 property value increases, increases in rent, things
5 like that in anticipation of improvements to be
6 delivered in 2024?

7 A Yeah. I think some of the sales like the
8 Maritime Building sale sold for an extremely high
9 price right down on Alaskan Way. It was purchased in
10 confirmation of the sale. They recognized the
11 benefits -- potential benefits of the LID, and it
12 factored into their purchase decision. That sale
13 comes to mind, and some of the -- as we were doing our
14 studies, some of the -- some of the viaduct was coming
15 down, so you had some elements of that where maybe
16 some rents were being adjusted for that.

17 But, again, because the improvements weren't
18 constructed yet that the market is not going to fully
19 reflect that in their decisions at that time. So
20 that's why we do what we do when we're appraising it
21 as of the date in time. We have to make estimates for
22 how the market would react as of a given date and
23 time.

24 Q And so the market isn't fully realizing the
25 special benefits that will include properties when the

1 LID is actually delivered; correct?

2 A If you're -- yeah, if you're examining -- if
3 you're examining the market's behavior in the before
4 condition that there are some elements of the viaduct
5 removal and whatnot that would be indicative of some
6 higher rents or that type of thing.

7 But that's -- again, we're making estimates
8 based on a given time based on certain conditions. So
9 if you're looking at today and taking off the
10 hypothetical conditions, yeah, there's -- the market
11 is what it is, but that wasn't part of the scope of
12 our assignment.

13 Q Are appraisers capable of discounting benefit
14 if it's not going to be received immediately? This is
15 just a general question.

16 A In 30 years we've never been asked to do some
17 sort of future value for an LID.

18 Q Oh, I'm not asking for a future value. I'm
19 asking if you're capable of discounting the future
20 benefit if it's not going to be received immediately?

21 A Well, technically, I guess you could -- you
22 could try to do that. Again, that's why you set a
23 specific date and value so you can measure as best as
24 possible what the market's reaction is going to be to
25 the before and after conditions at that time.

1 Q And I'll just give you an example. So, for
2 example, a lending appraisal might consider discounts
3 to account for future proposed improvements; is that
4 right?

5 A That may be a scope of an assignment you would
6 get from a financial institution that you would
7 consider.

8 Q Is it reasonable appraisal practice to
9 consider and discount the value of a future condition
10 not in place at the date of value?

11 A Again, it would depend on the scope of
12 assignment. If that's what somebody asked you to do
13 and you had the capability to do so, then you would
14 undertake that assignment based on those assumptions.

15 Q Okay. Relatedly, do commercial appraisers
16 discount a future benefit if it is not going to be
17 received immediately simply to account for the time
18 value of money?

19 A Again, given a specific assignment and
20 specific request from the client, you can do that,
21 certainly. Like in a subdivision, you're looking at a
22 number of lots and what the gross allowed time is; and
23 if there is a time element involved, you may discount
24 it back to a present -- present value. But that
25 wasn't -- that was not the scope of the assignment for

1 this project.

2 Q Okay. So let's turn to this assignment then.
3 You testified that the difference between your
4 treatment of recently developed apartments, for
5 example, and vacant land slated for development was
6 that no labor, capital, or risks associated with the
7 development had gone to the vacant site yet, and,
8 therefore, the vacant land is not valued as highly and
9 received a smaller assessment. Do you recall that?

10 A Well, the vacant lands valued proportionately
11 like an adjacent property would be that's improved.
12 Because the -- because we're valuing as of a specific
13 date and time, we can't assume it's constructed. We
14 don't know what's going to happen four years down the
15 road. We're asked to look at current market value as
16 of a specific date and time, so that's what we did.

17 Q And you specifically explained, though, that
18 the reason for some differences between similarly
19 situated vacant sites slated for development and
20 already developed sites with apartment complexes on
21 them was that the labor capital and risks associated
22 with development had not yet been borne for those
23 vacant sites?

24 A Yes.

25 Q Do you recall saying that?

1 A Yes, because when we're valuing as of a
2 specific date and time. And in that --

3 Q Just taking that concept, would that concept
4 be true for the LID improvements, the fact that the
5 labor, capital, and risks associated with development
6 have not yet been borne makes these improvements less
7 valuable currently?

8 A No, no. Again, it just gets back to our
9 assumptions and what we've been asked to do. The
10 client specifically asked us to do a valuation as of a
11 certain date under certain conditions, and we did
12 that. So we're just reflecting the market and not
13 discounting it.

14 Q Okay. So I'm going to ask you to set aside
15 that assumption for one moment and just answer the
16 question as if that assumption did not -- and I
17 understand that that is not the scope of your
18 assignment, but my question is: Setting aside that
19 assumption, does the fact that the labor, capital, and
20 risks associated with development have not yet been
21 borne make these LID improvements less valuable
22 currently setting aside all hypothetical assumptions?

23 And I know -- I'm asking you a hypothetical
24 because I'm now in a world that does apparently not
25 exist to you, but that's the question.

1 A If you could rephrase that.

2 Q Sure. Hypothetically, if the hypothetical
3 assumptions do not exist, does the fact that the
4 labor, capital, and risks associated with development
5 have not yet been borne make these LID improvements
6 less valuable currently?

7 A So if we're valuing the property in the after
8 and we're assuming that the LID improvements aren't
9 built in the after condition?

10 Q You're assuming that they're going to be built
11 in 2024, and you're trying to figure out what the
12 value is currently.

13 A Well, if that was -- again, if the client
14 asked us to -- as a scope of services to look at it
15 that way, then we could -- we could do that. And,
16 yes, your -- you'd most likely be -- like a
17 subdivision, you're depending on the market's
18 perception. You would be discounting it back to a
19 present value.

20 Q So as another example, we talked about -- you
21 talked about the 2 and U property in your direct
22 examination. And you noted in your testimony that the
23 final special benefit for the 2 and U property was
24 over five times greater than the preliminary estimate
25 because at the time of the preliminary estimate, the

1 property was under construction; is that right?

2 A Well, I don't know if it was five times
3 greater. I don't remember saying that. It was -- the
4 amount of benefit from the formation to the final was
5 higher.

6 Q Okay. So it was higher between preliminary
7 and final, and it was because the property was under
8 construction at the time of the preliminary
9 assessment?

10 A Correct.

11 Q Construction to most of the LID improvements
12 had not commenced as of October 2019; is that right?

13 A Yes.

14 Q I'm going to switch gears a little bit.
15 You've previously testified that you did not do any
16 independent due diligence to determine the reliability
17 of the City's estimates for completion of the
18 Waterfront LID improvements and that you relied on the
19 City's information for the -- relative to the
20 completion and design elements; is that right?

21 A Yes. Again, the scope and purpose of the
22 assignment was to assume that those factors have been
23 completed, and we took it into account in our
24 analysis.

25 Q So you didn't do any independent due diligence

1 to ensure that proposed designs or cost estimates or
2 construction schedules you relied on were not going to
3 materially change?

4 A It wasn't our assignment, so we weren't asked
5 to do that. We just made an assumption that the
6 project was completed as of a specific date and time.

7 Q And that assumption also resulted in the fact
8 that you didn't consider the risks that design changes
9 or even cancellation of project elements could be
10 imposed as part of environmental review or the
11 permitting process?

12 A Again, that was not part of the scope of our
13 study.

14 Q Are there, in fact, any uncertainties related
15 to the delivery of the LID improvements in 2024?

16 A I don't know. I'm not involved in that aspect
17 of the project.

18 Q You testified in your deposition that -- and
19 you've testified here as well that it would be
20 difficult to conduct an appraisal now for property --
21 to value a property in 2024 because you couldn't
22 possibly know what the market and property conditions
23 would be like in 2024. Do you recall that?

24 A Yes.

25 Q And so inherent in the delay, there is some

1 uncertainty related to valuing property -- valuing the
2 future delivery of property; is that right?

3 A Well, all I'm saying is that I can't read the
4 future. I mean, when I was doing my analysis in
5 October 2019, who would have thought that this COVID
6 issue would happen? I think when I was being deposed,
7 I think your thought process was that the market was
8 going to continue to go up.

9 And so, you know, markets go through cycles,
10 and we're just -- we're capturing a market's
11 perception as of a given date and time as we were
12 asked to do as part of the scope of our services.

13 Q Okay. So talking about COVID a second, would
14 you agree that current market conditions have changed
15 due to COVID?

16 A They -- they may have and they may not. You
17 know, you look at the King County housing market, and
18 it's remained stable. You look at how the stock
19 market has increased. I haven't been asked to do any
20 appraisal work downtown, but, you know, the market
21 seems to be looking at it on a pretty short-term --
22 short-term basis.

23 So I don't know if I was asked to do an
24 appraisal today whether I would see a change or not.
25 The exposure period that investors are looking at

1 maybe have been extended due to this COVID issue, but
2 it may not have affected the market much, if at all.

3 Q Are you aware of John Gordon's testimony that
4 hotel values may have dropped by up to 15 percent?

5 A I've heard him say that they would be less. I
6 didn't -- I don't recall the specific percentage.

7 Q Do you have any reason to doubt his opinion
8 that hotel values have dropped due to COVID?

9 A Well, I don't know what he's basing them on.
10 I mean, if you're looking at a willing buyer and
11 willing seller, why would a hotel knowledgeable,
12 well-informed owner/investor sell in a depressed
13 market or a -- it's not a -- you're not valuing a
14 panic price or a distressed price. I don't -- I
15 haven't valued any of the hotels recently. My
16 valuation was October 2019. So I don't know what
17 Gordon is basing his thought process on.

18 Q And just speaking about willing buyer/willing
19 seller, do you have an opinion on whether COVID has
20 affected investor sentiment positively or negatively?

21 A Well, I think it's probably changed their
22 outlook, again, on how long this is going to continue.
23 So their -- their exposure period is probably --
24 probably longer. Again, I just -- I haven't done any
25 appraisal work in conjunction with this COVID issue to

1 say. I really haven't looked at the market that good
2 to know.

3 Q If actual completion of the LID improvements
4 does not occur according to designs you were provided
5 and not until after 2024, would that impact your
6 analysis of special benefits?

7 A Well, again, that question is kind of
8 irrelevant because I'm looking at the property as of a
9 specific date and time and that at least at a minimal,
10 the plans and -- the design elements that I've been
11 given have been completed at a minimum. So that's how
12 I valued the property.

13 Q Is the fact that you do not discount for
14 present value and you do not discount for permitting,
15 construction, and economic risks, do those facts
16 increase your estimated special benefit estimate, the
17 fact that there are no discounts?

18 A I'm just looking at the market would react as
19 of a given date and time. I'm not considering -- I'm
20 considering the project is done. So any -- any
21 construction delays or anything like that are
22 irrelevant to my analysis. It's done just as of a
23 specific date and time assuming the project has been
24 completed.

25 Q And speaking about construction disruptions,

1 you've testified that you did not discount any of the
2 LID benefits due to construction disruptions and time
3 lag, and you based this on an analogy to eminent
4 domain practices. Do you recall that?

5 A Yes. I believe in eminent domain that the
6 construction aspect of a project isn't compensable
7 when you're doing right-of-way appraisal.

8 Q Okay. So let's talk a little bit about
9 eminent domain. In eminent domain cases, sometimes
10 there's a special benefit analysis if properties are
11 partially condemned for a public improvement project
12 and the remainder benefits from the improvement; is
13 that right?

14 A That can happen, yes.

15 Q Okay. And are you aware of these sorts of
16 situations?

17 A They're pretty rare. I don't -- I haven't
18 done a lot of -- a lot of right-of-way work. I've --
19 I don't know if I've ever encountered it. There have
20 been a couple large right-of-way projects that were
21 done, but they formed LIDs to estimate the -- that --
22 to estimate that factor because it was clear that the
23 properties were going to benefit.

24 So they did a separate benefit study to
25 reflect that. So the appraisers that were doing the

1 right-of-way, the before and after right-of-way
2 appraisers -- appraisals weren't considering -- they
3 were instructed not to consider the special benefit
4 element, and that was done separately.

5 Q Okay. So it sounds like you don't have a lot
6 of experience with the special benefits in the context
7 of eminent domain, but you're aware that this can
8 occur; is that right?

9 A Yes.

10 Q Okay. So we're going to turn to Exhibit 118.

11 A Are you going to put that on your screen,
12 Ms. Lin?

13 Q Would you like me to share screen?

14 A Yeah, if you could, please. It's just easier
15 for me.

16 Q Okay. This is Exhibit 118, and it is an
17 excerpt from Nichols on Eminent Domain, which is a
18 treatise. Are you familiar with the Nichols treatise?

19 A No.

20 Q That's all right. I've -- this chapter
21 regards something we were just talking about, which is
22 when a property is partially condemned for a public
23 improvement project and the remainder benefits from
24 the improvement. And I've highlighted here this
25 sentence: The special benefit increases the market

1 value of the remaining land.

2 Is that consistent with how special benefits
3 are defined in the LID context, that is as an increase
4 in fair market as a result of the improvement?

5 A Yes. If it's the difference in fair market
6 value before and after the improvements are completed
7 and if there's a measurable difference, then that is
8 special benefit.

9 Q Okay. Moving down here, a special benefit
10 must be conferred by the condemner, result in a
11 permanent increase in market value, and be capable of
12 monetary measurement.

13 So consistent with what you just said, it's
14 got to be actual. It's got to be measurable. It's
15 got to be an increase in fair market value due to the
16 improvement. Is this consistent with how special
17 benefits are treated in the LID context?

18 A Yeah, more or less.

19 Q Okay. And then scrolling down, this is
20 talking about -- a condemnor must establish all of the
21 following to lay the predicate for a claim of special
22 benefit.

23 And nine says that benefits are not -- I'll
24 make this a little bigger. That benefits are not
25 speculative or remote and that prospective benefits

1 cannot be considered if they constitute only future
2 possibility and do not enhance the present value of
3 the property allegedly benefited, but they may be
4 considered if it is sufficiently certain that they'll
5 be realized.

6 And, ten, that the benefits are special rather
7 than general.

8 Are these also consistent with -- do you agree
9 that these principles are also relevant in the context
10 of a LID?

11 A Well, the context of a Local Improvement
12 District is different than eminent domain, and we have
13 certain state statutes that we base our benefits on.
14 So the definition of a special benefit being
15 measurable before and after, in my case, a local
16 improvement district, specifically a local improvement
17 district-funded element, is what I'm looking at. So
18 I'm not looking at a special benefit in relation to a
19 condemnation issue.

20 Q I understand. I'm wondering if there are
21 overlapping principles? And it seems like --

22 A Yeah, there are -- yes, there would be some --
23 as I've read this, there would be some overlapping
24 terminology, yes.

25 Q And so do you agree that estimated special

1 benefits must be actual and measurable?

2 A Yes.

3 Q And nonspeculative?

4 A Yes.

5 Q Are you aware that state statute provides
6 property owners the opportunity to elect a bifurcated
7 proceeding in the eminent domain context under which
8 valuation of special benefits is separately determined
9 after construction of the improvements and that the
10 purpose is to avoid speculative special benefit
11 offsets that are unfair to the owner?

12 A I'm not aware -- again, I'm not an eminent
13 domain expert.

14 Q Would you agree that that type of process,
15 that is valuing the special benefits after
16 construction of the improvements, would tend to make
17 the estimate of special benefits less speculative?

18 A Ms. Lin, again, getting back to the context of
19 what I did is all I'm concerned with in this case.
20 I'm not concerned with eminent domain cases or any
21 other issues like that. You know, the LID -- LID law
22 is different than eminent domain law, and it's got a
23 long history.

24 And that is what I follow. So, yes, is there
25 a similar verbiage between the two? Yes. For me

1 that's -- that's where it stops. I mean, I don't -- I
2 don't follow eminent domain law in doing my local
3 improvement district special benefit studies.

4 Q However, it is true that you did borrow from
5 eminent domain principles when deciding not to
6 consider the interim disruption from construction;
7 isn't that right?

8 A I don't know if I borrowed from anything.
9 It's just a -- it's just an assumption that was made
10 and asked to me by the client to perform an appraisal
11 of the before and after based on certain conditions.

12 Q And when you explained it to us in direct
13 testimony and in your deposition, you explained it --
14 you explained one of the bases for your
15 nonconsideration of construction impacts was, for
16 example, because in eminent domain those sorts of
17 impacts are noncompensable; is that right?

18 A Yeah. It was just an example. It's just not
19 something in an LID that we consider. We -- we assume
20 that the project is completed, so construction noise
21 and things like that just aren't -- aren't part of the
22 property rights or anything that we're appraising. I
23 mean, it's just as simple as that.

24 Q So you've heard testimony from our experts
25 that for direct appraisals it's generally accepted

1 that it's reasonable for two appraisers with access to
2 similar data and information valuing the same piece of
3 property to arrive at values that are 5 percent off.

4 Have you -- are you aware of this testimony?

5 A Yes.

6 Q Would it be -- and have you done direct
7 appraisals?

8 A Certainly, yes.

9 Q Okay. Would you agree with this statement?

10 A Well, you -- I've been in situations where
11 we're almost identical in appraised value, where one
12 is lower and one is higher, where there's
13 significant -- where there's significant difference.
14 I mean, an appraisal is an estimate of value. It's an
15 opinion. And a little saying that everybody has got
16 an opinion, but, I mean, ours is -- ours is based on
17 our experience and our judgment. And I have a
18 considerable amount of that when it comes to doing
19 LIDs. I've been doing these for over 30 years.

20 Q So given the same quality of data and
21 information -- right now we're just talking about
22 direct appraisals. Given the same quality of
23 information and data, would it be reasonable to be
24 50 percent off?

25 A It would just depend on how an individual

1 appraiser was looking at the market, how they were
2 looking at the data.

3 Q So if two appraisers --

4 A You could be the same. You could be slightly
5 higher, slightly lower than another appraiser.
6 There's no set norm or margin of error that you may
7 encounter in the market. I mean, it's just based on
8 each individual appraiser's opinion given that the
9 data that they're looking at and how they perceived
10 the data in the market.

11 So, again, you could be the same, higher or
12 lower, and to what extent it would just depend on the
13 property and the data and the scope of the services
14 and a menagerie of things.

15 Q So let's pretend that the scope of services is
16 the same for two direct appraisals and both appraisers
17 are experienced and have access to similar quality of
18 data and they come up with values that are 50 percent
19 off, would you want to understand the reason for that
20 inconsistency?

21 A If I was asked to. If it was part of my
22 assignment to ask him why they were that much higher
23 or lower, then, certainly, I would -- I would try to
24 find out.

25 Q Typically, if that occurred, would there be an

1 attempt to reconcile those appraisals perhaps through
2 a reappraisal?

3 A Again, that would just depend on the scope of
4 services, who the client is, what you were asked to
5 do.

6 Q Do appraisal standards and process provide for
7 any certainty in uniformity in assessing property
8 values?

9 A Well, there's no -- there's no standard of
10 margin of error or anything like that or any -- you
11 know, in an LID, I often derive very, very low
12 benefits when I'm getting out towards the edge of a
13 boundary and very much higher benefits closer to
14 project elements. And so there's -- you know, there's
15 no like standard of margin of error in that. I don't
16 know any standard in USPAP as far as the margin of
17 error goes.

18 Q So in a direct appraisal, it would be
19 reasonable for two appraisers to be 50 percent off?

20 A I don't know if it would be reasonable --

21 Q In your opinion --

22 A I don't know if it would be reasonable or not.

23 Q If the same --

24 A Again, it would depend on the scope of
25 services and the type of property you're appraising,

1 and if one appraiser was that much higher than
2 another, then perhaps they're considering different --
3 different elements. I don't know. It's just an
4 unanswerable question.

5 Q If that happened to you -- let's pretend you
6 were doing a direct appraisal of a property -- and you
7 were asked to do a direct appraisal of a hotel
8 downtown and you found out John Gordon was also doing
9 a direct appraisal and you were both given the same
10 assignment -- they just want to get a fair market
11 value estimate of their hotel -- and you found out
12 that your valuation was 50 percent off from
13 Mr. Gordon's, would you want to figure out the reason
14 for that inconsistency?

15 A If I was asked -- if I was asked to, sure.

16 Q How about this: Given the same information
17 and the same scope of services, would you expect
18 another experienced appraiser to come up with similar
19 special benefit amounts that you did for the LID
20 improvements?

21 A Again, it would just depend on how they were
22 perceived in the market. They may perceive it
23 differently than me. There are a lot of variables in
24 an assignment like this. Again, it would just depend
25 on an individual appraiser and how they're viewing the

1 market at that time.

2 Q Let's pretend that they're given all of the
3 same information that you were given and they came up
4 with special benefit estimates that were five times as
5 high as yours. Would that be -- would you think that
6 would be reasonable and consistent with a mass
7 appraisal approach?

8 A Again, I mean, I can't read people's minds
9 about what they're going to be -- how they're going to
10 be utilizing the data or how they're perceiving the
11 market. So it would just depend on the circumstances
12 at the time.

13 Q So is there any standard of deviation before
14 you believe reconciliation should occur between --
15 reconciliation should occur?

16 A Well, again, it's up to the client. If
17 somebody has a vastly different opinion than me, if
18 the client wanted it reconciled, then you can go that
19 route. Again, it's just assignment-specific.

20 Q So this is up to the client. It has nothing
21 to do with USPAP standards?

22 A No. I mean, I think if -- if I do an
23 appraisal and I've got a client and I've got specific
24 assumptions and bases for doing it, that's my
25 appraisal. If another client hires the same appraiser

1 to do the same property and they come up with a
2 different value estimate and that is what it is, and
3 if I'm asked to review what they did and look at what
4 they did, then I would do that. If I'm not, then I
5 wouldn't.

6 Q So you have not tried to assess or determine
7 the margin of error in your report?

8 A Margin of error from what?

9 Q And I'm talking about if -- how about this:
10 What have you done to assess the relative accuracy of
11 your individual conclusions?

12 A We do a lot of internal review to make sure
13 that we're proportionate in how we're applying -- how
14 our benefit estimates are derived and that similarly
15 situated properties are roughly proportionate to each
16 other.

17 So we do a lot of internal review before we
18 finalize the report to make sure that we're being as
19 fair and honest and proportionate as we can between
20 properties.

21 Q And what did that internal review look like
22 exactly? And it would be helpful if you could just
23 walk me through what it would look like for one
24 particular property.

25 A Well, for instance, in this case we've got a

1 number of different appraisers working on different
2 elements of the project, so, you know, towards the end
3 of the assignment, we all just sit down for hours on
4 end and go through each property and talk about the
5 different elements that they're considering for that
6 property before and after given the scope of our
7 assignment and just work through and making the
8 appropriate changes if they're needed so that we're
9 being as consistent as possible and roughly
10 proportionate as possible.

11 Q And when you say appropriate changes, did you
12 recalibrate any individual before or after conclusions
13 after your initial work was done?

14 A Not after the initial work was done, but
15 that's part of the internal review process is to do
16 that before you finalize your analysis so that you've
17 looked at everything and considered everything within
18 a reasonable basis and then at that time finalize your
19 report.

20 Q And so I guess were there any of these
21 sessions where you've sat down with the rest of your
22 team and you've had to recalibrate individual
23 conclusions?

24 A Oh, sure, yeah. When we're going through the
25 internal review process before you're finalizing the

1 report, there are often changes made to different
2 properties just based on a variety of factors that one
3 person may see and that the other didn't consider and
4 things of that nature and just part of doing due
5 diligence and making sure that you're being as fair
6 and proportionate as possible when you're finalizing
7 the report.

8 Q So you mentioned fair and proportionality.
9 Are those the bases for those individual changes, or
10 were there other bases for the individual changes as
11 well?

12 A Well, it would just depend on the property.
13 There -- there may have been, you know, various
14 elements that weren't considered, or maybe one person
15 looked at an area slightly different than another.
16 And we'd talk about it and reach a conclusion that
17 we're all comfortable with and we felt that it would
18 be more reflective of the market. And if changes were
19 needed at that point in time, then they were made.

20 Q And about how many required some sort of
21 recalibration, how many properties?

22 A I don't know, Ms. Lin. I mean, it would
23 just -- I can't remember exactly how many properties.
24 When you go through a process like this, you work
25 through the properties many, many, many, many times.

1 So there's constant changes going up trying to refine
2 your analysis. So it -- you know, it's a very
3 time-consuming and intensive process to get through
4 this type of study.

5 Q Did you look at any matched pair -- did you
6 look at any actual sales as part of this internal
7 review?

8 A Well, certainly. I mean, if you look -- if
9 you look at our information we provided, all our
10 background information, we've got, you know, a
11 significant amount of sales and rental information,
12 so, certainly, yes, we looked at sales.

13 Trying to do a matched pair in relation to a
14 project like this is just very difficult to get like a
15 one-on-one type of a scenario. Ideally, a matched
16 pair type of analysis would be great, but it's very
17 seldom applicable, especially in a project of this
18 magnitude where you've got a lot of different elements
19 and you're comparing them to other similar projects
20 that have similarities of elements, but there's
21 nothing exact that's out there that you're going to
22 find in the market to do some sort of matched pair
23 analysis that we could find in the market.

24 Q Okay. So if there was nothing exact, when
25 you're looking at these actual sales in order -- as

1 part of your internal review process, how did you make
2 adjustments in order to check your own numbers?

3 A Well, we would look at other -- other similar
4 projects, how the market reacted to those, and just
5 like in any appraisal, you try to bracket your low and
6 high ranges just like we've done in our worksheets.
7 Our worksheets are a good example of kind of the
8 mental health exercise we went through to derive our
9 special benefit estimates.

10 Q Let's actually turn to one of those worksheets
11 right now. Let's look at Exhibit C-19, which is the
12 Maritime Building spreadsheet. If you'd like, I'll
13 just go ahead and share screen. It seems like that
14 is -- so this is Exhibit C-19, which is the Maritime
15 Building spreadsheet. Do you recognize this?

16 A Yes.

17 Q So you testified regarding this spreadsheet in
18 your direct testimony, and you walked us through. And
19 is it correct that for each of the commercial
20 properties within the LID you prepared a similar type
21 of spreadsheet?

22 A That's correct.

23 Q And scrolling down to this bottom where
24 there's a special benefit summary, the ranges you have
25 here for special benefit range from about -- from

1 2,087,000 to 4,000,617 -- wait. Yes, 617.

2 A Actually, they range from 2 million 87 --

3 Q Sorry. Right. 6 million.

4 A Yeah.

5 Q Right. Sorry about that. Let me repeat that.

6 They range from 2,087,000 to 6,504,000; is
7 that right?

8 A That's correct.

9 Q And you testified that you used your
10 professional judgment to arrive at this final figure
11 of 3,848,000?

12 A Correct, right. And we're also trying to be
13 proportionate with other similar properties that have
14 similarities to that property in the marketplace when
15 we're reconciling that. We're looking at the current
16 state of the property and how hypothetically it would
17 react before and after these LID improvements.

18 Q Would anything -- based on these ranges, would
19 anything between 2,087,000 and 6,504,000 have been
20 reasonable as an estimate of special benefit for this
21 property?

22 A Well, again, you know, we're doing this to try
23 to reflect what an investor -- what a typical market
24 participator would consider. And this property is
25 right on Alaskan Way, so it's probable that it's going

1 to see a greater change than, say, properties three or
2 four blocks further away from the improvements.

3 So in this instance, that's most likely why we
4 had a fairly wide range because we're looking at,
5 well, what's really a worst-case scenario and what's a
6 best-case scenario and then looking, well, what's kind
7 of reasonable, what's more in the middle of the
8 market. And so we're just simply trying to reflect
9 how the market would look at something like that under
10 the types of economic elements that we see as far as
11 vacancy change, rent change, and capitalization rate
12 change.

13 Q Okay. But for this particular property
14 looking at this spreadsheet, would anything within
15 this range have been a reasonable estimate of special
16 benefit because these are the ranges you came up with?

17 A Well, in an appraisal, you always try to
18 bracket your estimates. So you -- is it reasonable it
19 would be -- no. Probably something less than 6.5 and
20 something probably higher than 2.07. And so you've
21 got your high and low range, and then we're looking
22 between and that. And we're reconciling our benefit
23 and what would be reasonable and what are other
24 similar properties like this -- although this one
25 wasn't unique, what other similar properties like

1 this, what's been our -- what's proportionate to what
2 we're looking at in other properties.

3 It's just a reconciliation process you go
4 through, and you try to reflect the market and reflect
5 the proportionality amongst other properties in the
6 market area based on our before and after assumptions.

7 Q Okay. Let's actually change to another
8 spreadsheet. Actually, let me make sure I don't have
9 any other questions on this.

10 If another appraiser was looking at this and
11 was trying to determine how you came to this
12 conclusion -- how you came to this final conclusion,
13 how would they determine that?

14 A Well, I think they would -- if they have any
15 experience, they would see -- they would see what I'm
16 doing. They would say, okay, yeah, he's bracketing --
17 he's bracketing the property. He's -- you look at his
18 conclusion. He's saying, okay, it's something higher
19 than 2.87 and something significantly less than
20 6 point -- 6504. Okay. He's reconciling it somewhere
21 between those numbers and making a judgment call on
22 what that amount is.

23 And then also, as I've mentioned in the
24 context of doing benefit studies, that that needs to
25 be proportionate to other similar types of properties

1 so that we're being fair to -- from one property owner
2 to another.

3 Q So if another member of your team at ABS
4 Valuation had come to you with this spreadsheet, with
5 these brackets between 2 and 6 million, 2 and
6 6.5 million, and came up with a final special benefit
7 amount of 6 million, would you have asked them to
8 recalibrate? Would this have triggered an internal
9 review? Sorry. Let me --

10 A Yeah. Situations like that did come up where,
11 in going through the internal review, we felt
12 proportionally that we may be high on a particular
13 property. And then when we would go back and look at
14 the worksheet and reconcile a different number,
15 whether that be higher or lower or maybe we stayed the
16 same.

17 Q And when you were looking at these
18 spreadsheets, aside from proportionality, were there
19 ever any things that stood out to you based on
20 absolute numbers that triggered a further internal
21 review?

22 A Based on absolute numbers, what do you mean?

23 Q Right. So I guess let me just explain. So
24 you said, you know, something that would trigger
25 internal review is if this percentage was very

1 different from another similarly situated building,
2 this 2.10 percent. I'm wondering: In your review,
3 was it ever the case that you just saw this special
4 benefit number, you saw these ranges, and you said,
5 actually, I think based on these ranges and this
6 number we would like to engage in additional internal
7 review of this property?

8 A Well, whether it be this or other properties,
9 I mean, any -- any significant amount of the
10 properties we did in the LID were done over an
11 extended period of time, and adjustments were made
12 just to get to a level of confidence that we had
13 before we finished the report.

14 So like I said, some properties were changed
15 because they were felt that they were disproportionate
16 or they had a higher or lower benefit than a similar
17 property. And maybe the analysis was refined, the
18 rent was refined, or the cap rate was refined, or the
19 vacancy was refined. So there was a lot of those
20 changes that went on through the course of doing our
21 study to get to the point where we were comfortable to
22 finalize the report.

23 Q Thank you. Did you and your team members ever
24 disagree on this final number based on a reason other
25 than proportionality?

1 A Well, there may have been instances where the
2 dollar figure just seemed way too high for that
3 property. And then we would look at, okay, what else
4 have we done to -- are we being proportionate or not?
5 And if we were, then maybe no change was made if we
6 weren't. Maybe another one maybe a change was made.

7 But proportionality is a main factor in what
8 we're trying to do. So when we're narrowing our
9 analysis down, it's the primary consideration we're
10 looking at. But there are other elements that we may
11 have changed to get to that number, such as the rent
12 or the vacancy or the occupancy or the compensation
13 rate.

14 Q And there's over 6,000 properties in the LID;
15 right?

16 A Yes. There are about 5,000 or so that are
17 condominiums, and there are, I think, about 1,050
18 individual or 1,100 or so what I call economic
19 entities. And about 50 or so of those economic
20 entities are comprised of the condo projects, and then
21 the rest of the tax parcels are comprised of the
22 Belltown area, the downtown area, the Pike Place
23 Market, and Pioneer Square and the Stadium district.

24 Q Did you and your team -- so for these 6,000
25 and some odd properties which are very varied, as you

1 just explained, did you and your team set any criteria
2 for either internal review or recalibration?

3 For example, if you're so and -- such and such
4 off from actual sales, it triggers an internal review.
5 That's just an example, but my question is much
6 broader.

7 A Well, it's really just on a parcel-by-parcel
8 basis. I mean, it was a methodical critique, review
9 of what we did on a parcel-by-parcel basis. And so,
10 you know, it was an extensive internal process to get
11 to the point where we were comfortable to finalize the
12 report.

13 Q So there was no criteria governing that
14 process -- no overarching criteria governing that
15 process? It was more just the parcel-by-parcel
16 approach?

17 A That's what complies with state statutes, yes.
18 We did it on a parcel-by-parcel basis, and that's the
19 best criteria you can have to internally review what
20 you've done.

21 Q All right. Let's switch over to Exhibit 119,
22 which I'll go ahead and just pull up and keep sharing
23 because it's a spreadsheet. I'll wait a little bit.

24 So do you recognize this as your spreadsheet
25 for the Hyatt Regency?

1 A Yes.

2 Q And right here you assume an occupancy rate of
3 80 percent; is that right?

4 A Yes.

5 Q And you assume an average daily room rate of
6 \$365 per room?

7 A Yes.

8 Q And you based this number, this 365 number,
9 dollar number, on sources such as Expedia.com,
10 Booking.com?

11 A That's correct.

12 Q And so this is based on rack rates, which are
13 generally higher than actual rates?

14 A Correct. We also consulted with Mark Lukens
15 who reviewed all these worksheets for reasonableness.

16 Q Okay. And John Gordon who had actual numbers
17 for this hotel explained during our objection that the
18 actual room rate for this hotel was \$205. Do you have
19 any basis to dispute that?

20 A No. I have not seen his actual information
21 that he's basing that on.

22 Q And so you have no basis to dispute that?

23 A No, other than I have not seen the
24 information.

25 Q And John Gordon stabilized his actual room

1 rate at \$222 based on actual room rates as well. Are
2 you aware of that?

3 A It sounds close to what I've reviewed.

4 Q Okay. So which figure, John Gordon's figures
5 or your \$365 figure, is more consistent with
6 historical performance for this hotel?

7 A Well, again, I mean, if I was privy to that
8 confidential information, which, you know, I haven't
9 been -- it hasn't been provided -- I would -- I would
10 put more reliance on effort at that time to review it.
11 And I felt it was -- it was reasonable.

12 And I would put more relevance on the actual
13 reported revenue that the hotel is generating than
14 based on what I had to rely on, which was -- which was
15 market-based evidence. I wasn't provided any of the
16 hotel's confidential proprietary information.

17 Q And that's because this hotel provided
18 (inaudible) about actual room rate. It's giving you
19 the historical performance of the hotel and,
20 therefore -- so it's helpful to project the
21 anticipated performance; right?

22 A Ms. Lin, you kind of cut out there a little
23 bit. Could you please repeat that.

24 Q Yeah. So this actual room rate information is
25 important because it is based on historical

1 performance and helpful to projecting anticipated
2 performance for hotels; is that right?

3 A Yes. I would agree. If I had the actual
4 historical performance, it would have been very
5 helpful in doing this assignment.

6 Q Okay. And correct that you're using the
7 income approach here; right?

8 A That's correct.

9 Q And the income approach takes revenue and
10 operating expenses to come up with a net operating
11 income and then capitalizes that to come up with a
12 value; is that right?

13 A Correct.

14 Q And room revenue, as you can see, is the
15 largest source of revenue for hotels; is that right?

16 A Definitely, yes.

17 Q So it's pretty important that you get a
18 reasonably accurate room rate; is that right?

19 A Yes. And we tried to do that based on the
20 best information we had available to us and I think
21 what anybody else in the market would look at.

22 Q Are you aware of what a STAR trend report is?

23 A Yes. I've heard of it.

24 Q And what do you know about it?

25 A Well, that it breaks down a group of

1 properties relative to room rate and that type of
2 thing.

3 Q And are you aware that you're able to purchase
4 a STAR trend report for a group of hotels in downtown
5 Seattle, for example, and those trend reports would be
6 based on actual room rates?

7 A Yes, I'm aware of that. We didn't use the
8 STAR report -- that's why I brought Mr. Lukens on
9 board. He's got 30 years of experience in doing
10 these, and we didn't even -- I didn't even consider
11 the STAR report at the time I was doing my analysis.

12 I thought it would be better to bring somebody
13 in that specializes in hotels more so than I do --
14 more so than I do and have him review everything that
15 we've done relative to the income approach and also
16 relative to comparable sales.

17 Q So how does it affect your analysis or your
18 view of your analysis now that you know that your
19 estimated room rate for the Hyatt is over 175 percent
20 of the actual average room rates?

21 A Well, assuming that what Mr. Gordon is
22 saying -- he has a basis for it, it would affect both
23 our before and after values if we were to use a lower
24 rate. And it would reduce both the before and after
25 values, and then we would compare that with comparable

1 sales to see if it was reasonable and really
2 indicative to what's going on in the market.

3 Q And that same thing is true now that you know
4 that the room rate you used of \$365 is over
5 150 percent greater than John Gordon's stabilized room
6 rate of 220?

7 A Well, I don't know that. I haven't seen the
8 information. That's based on what he's provided. I
9 have not -- like I said, I have not seen it.

10 Q Are you aware that John Gordon has testified
11 under oath that he received these -- this data from
12 hotels and that these -- and the numbers he presented
13 were based on actual room rates from the hotels he
14 looked at?

15 A Yeah. I'm not saying he's being dishonest.
16 All I'm saying is I haven't seen it. Mr. Lukens said
17 that, you know, oftentimes, you'll look at the STAR
18 reports as well. And they take a certain degree of
19 estimation to arrive at the daily rate based on
20 comparison of that data.

21 So it was unclear to me whether he's using
22 actual confidential income, room revenue rates, or if
23 it was a hybrid of that and the STAR report. And in
24 talking to Mr. Lukens, he said, well, the STAR reports
25 require judgment just as looking at information, you

1 know, that's online.

2 And, you know, at the end of the day, we're
3 looking at the different to market value without and
4 with something. So perhaps if you've got a -- if our
5 room rates are a little higher, you maybe may have a
6 different cap rate or changes in the market. So,
7 again, we would need to -- I would need to see what
8 Mr. Gordon has and how he came up with his figures.
9 And if they were different than ours and relevant,
10 then they would affect both our before and after
11 values.

12 So the ultimate difference, the delta, the
13 benefit, it may be affected some. It may not be
14 affected a lot. I don't know. It's just an analysis
15 that I haven't done.

16 Q So it's possible some of these hotels might
17 require an adjustment as well?

18 A I don't know. I mean, you know, you're
19 looking at the difference in market value before and
20 after. And if the room rate is lower, maybe the --
21 depending on how he looked at things, maybe the
22 judgment of myself and Mr. Lukens would be different.
23 Perhaps the benefit amount would be similar or
24 slightly less. I don't know. That's not an exercise
25 that I've done.

1 Q And scrolling over here -- sorry. So I'm
2 going to scroll out. You've already explained what
3 these first three columns show, so I won't have you do
4 that again. Let's zoom right in to the second column.

5 So in these first two scenarios, low/high, you
6 assume that room rates and other sources of revenue
7 will increase by .2 percent and .45 percent in the
8 low/high scenarios respectively; is that right?

9 A That's correct.

10 Q And you're holding occupancy static at
11 80 percent?

12 A That's correct.

13 Q Okay. How did you come up with this low
14 percentage of .20 percent?

15 A Just an adjustment based on market
16 information, discussions with Mr. Bird who helped me
17 and did -- and did a lot of the hotel analysis and
18 Mr. Lukens and looking at the before and after of the
19 elements, the location of the properties, is it
20 reasonable that they could get a little more revenue
21 with the LID completed, and if so, approximately to
22 what percentage, so just a judgment based on a review
23 of market.

24 Q And is there anywhere in the report where we
25 can see this work or see how you came up with these

1 two percentages in the low and high scenario?

2 A No. Again, we didn't write a separate report
3 for this -- this property.

4 Q Is there a model or equation you were relying
5 on?

6 A Just our judgment and trying to be consistent
7 with how we're looking at the changes in other hotels
8 and different areas of the LID.

9 Q Are there any studies or data that inform this
10 analysis?

11 A Again, it's just looking at other market
12 studies and other areas we looked at where the change
13 in the project elements that we're looking at
14 reflected an increase in their revenue.

15 So, you know, discussions that Mr. Lukens had
16 with other property managers, you know, would have
17 been part of the input that went in there and then
18 just looking at location change of the property before
19 and after the LID, what would -- what would be a
20 reasonable -- similar to the reconciliation we did at
21 the bottom of the page, but the same kind of mental
22 process goes through to looking at the high and low
23 range of what would be reasonable in the market.

24 Q And so for this particular property, the Hyatt
25 Regency, can you walk me through kind of exactly what

1 the process was for arriving to .20 percent? It's a
2 very specific percent.

3 A Yeah. Again, there's -- you know, what we do
4 isn't an exact science. We're making -- we're making
5 judgment calls based on looking at other similar
6 projects that are out there, like New York and Boston,
7 and the impact that had on revenue and just making
8 judgment calls on location differences of the property
9 before and after the LID to arrive at what we felt a
10 reasonable range was.

11 Q I understand that it's not an exact science.
12 I was more -- I would like to know your best
13 description of what that process looked like.

14 A I just told you.

15 Q If someone on your team had said, actually, I
16 think the low percentage should be .25 percent, how
17 would that have been received?

18 A I don't know. Like I said, in a lot of these
19 analyses, we -- like on this particular property, we
20 probably went through scenarios where we changed both
21 the occupancy rate and the room rate. I mean, it's
22 got a -- we're looking at how the market would react
23 to something based on different variables.

24 So, you know, at the finalization of what we
25 did, this is what we came up with, but we probably

1 looked at different -- different variable element
2 changes. And in this case we just felt, given where
3 the property was located, that the occupancy rate
4 probably wouldn't be impacted as a result of this
5 whereas a property like the Marriott, just given its
6 proximity closer to the Promenade, the Overlook Walk,
7 and the Waterfront area, they may see a little change
8 in occupancy as well as room rate. So it just
9 depended on where the property was located at.

10 Q And I understand you do start with these
11 general principles, like location of the property and
12 whether or not you think that it will draw additional
13 tourists due to the proximity to some of the LID
14 improvements and other things. I guess I'm wondering
15 how these general principles boil down to an exact
16 percentage?

17 A It's just a judgment call. Again, we bracket
18 a high and low range. We -- again, leaving it on the
19 room rate change, we would have looked at different
20 variables. And is this reasonable, or is this one
21 more reasonable? And at the end of the day, just make
22 a determination of what we think would be an
23 investor's perception of what kind of change you would
24 anticipate in a property like this given its location.

25 Q Okay. And it looks like you used the same

1 percentages, so that's .2 percent and .45 percent to
2 increase food and beverage revenue and parking and
3 other income revenue; is that right?

4 A Yes.

5 Q And so for food and revenue, you go from
6 \$40 in the before right here to \$40.08 in the low
7 scenario and \$40.18 in the high scenario; is that
8 right?

9 A Yes.

10 Q And is this based on an assumption that hotel
11 managers will charge between 8 cents and 18 cents more
12 for food and beverage items based on the LID
13 improvements?

14 A No. It was just based on discussions with
15 Mr. Lukens and looking at the market that it would be
16 reasonable that amount of change would flow through
17 the different revenue sources. There's no -- no
18 individual information that food or beverage revenue
19 would be different than that.

20 Would there be some change? Yes, it's
21 reasonable. Is it reasonable it would be similar to
22 the change in the room revenue? Would it be
23 applicable to other elements of the hotel? And we
24 felt it would be a reflection of the market, and
25 that's what we based our opinion on.

1 Q So is there any data that actually goes into
2 these -- or I guess any data or studies that go into
3 the increase in the food and beverage revenue?

4 A Well, I know Mr. Lukens looked at a number
5 of -- he has more studies and looked at other revenue
6 information, and you asked a lot of where we got a lot
7 of these figures. We relied on his judgment, too, on
8 how much of it would increase.

9 Q Okay.

10 A So he would have looked at sources like that.

11 Q And so parking and other income also gets
12 increased by these same percentages. Were there
13 different studies and data for parking than there was
14 for food and beverage?

15 A I don't know if we looked at any separate
16 parking studies. Obviously, we knew what the
17 published rate was for parking and things of that
18 nature. So that would have been a consideration.
19 Again, we just felt that that revenue extreme would be
20 roughly similar through the parking revenue and the
21 food and beverage revenue.

22 Q Okay. Did you do any reliability testing to
23 determine whether these two percentage estimates,
24 .2 percent and .45 percent, were reasonably accurate?

25 A Well, reliability testing in the sense that we

1 had these reviewed for reasonableness, for
2 reliability, that would have been our testing.

3 Q And that was Mark Lukens?

4 A Correct.

5 Q And just to reiterate, these increases are all
6 hypothetical; correct? They're based on your
7 hypothetical condition that the after improvements are
8 in place as of October 2019?

9 A That's correct.

10 Q So it looks like the formula here is E18 times
11 1 plus Q17. So E18 is 365. That's the before room
12 rate. And then Q17 is the percentage amount; is that
13 correct?

14 A Yes.

15 Q And so this figure is the before value times
16 1.20 percent based on this formula right here, 1 plus
17 Q17?

18 A Yes.

19 Q Okay. So this figure right here is your
20 before value multiplied by a special benefit
21 percentage?

22 A We're just showing that, yeah, for purposes of
23 information so the reader can see what percentage
24 change that we applied to the room revenue, the food
25 and beverage, and the parking revenue.

1 Q And, again, this room revenue, food and
2 beverage revenue, parking and other income revenue
3 ends up getting capitalized into an after value; is
4 that right?

5 A Yes.

6 Q So you did the same thing -- if you look at
7 the equations on top right up here, it looks like this
8 one is the before room rate times the after
9 percentage. This one is the before food and beverage
10 revenue times the low percentage and likewise with
11 these other numbers; is that right?

12 A Yes.

13 HEARING EXAMINER VANCIL: Ms. Lin,
14 we'll take a break there, and we'll return at
15 1:15 after our lunch break. Thank you.

16 (A luncheon recess was taken from
17 12:00 p.m. to 1:16 p.m.)

18 HEARING EXAMINER VANCIL: We will
19 return to the record.

20 Is Mr. Macaulay on direct?

21 MS. LIN: This is actually on cross.

22 HEARING EXAMINER VANCIL: Sorry.
23 Cross, yes.

24 MS. LIN: And should we go ahead and
25 admit the exhibits that we've already talked about?

1 HEARING EXAMINER VANCIL: If you would
2 like.

3 MS. LIN: I guess we can -- I guess
4 let's go ahead and admit Exhibits 117, 118, 119, and
5 130, and with the clarification that Exhibit 130 is
6 actually the Notice of Assessment for the Sound Hotel
7 and the Arrive Apartments and not for the Marriott.

8 HEARING EXAMINER VANCIL: Any
9 objections to 117, 118, 119, or 130 being admitted?

10 MR. FILIPINI: No objections.

11 HEARING EXAMINER VANCIL: 117, 118,
12 119, and 130 are admitted.

13 (Exhibit 117, Exhibit 118, Exhibit 119,
14 and Exhibit 130 were admitted.)

15 BY MS. LIN:

16 Q Okay. Let's continue with Exhibit 119, which
17 is the spreadsheet -- so I will share it.

18 HEARING EXAMINER VANCIL: And, Ms. Lin,
19 let's clarify what numbering system we're using.
20 We've got 117, 118, and 119. We didn't identify when
21 you started the case numbers for which you're
22 representing. If you could state those in short form
23 without listing them all so that we have that for the
24 record, and we're picking up from, I assume, 116 where
25 we left off with those earlier in the hearing?

1 MS. LIN: Sure. And these are for Case
2 Numbers CWF 233, 318, and 409 through 441.

3 HEARING EXAMINER VANCIL: Thank you.

4 MS. LIN: Absolutely.

5 BY MS. LIN:

6 Q So I will go ahead and share screen again. So
7 picking up where we left off, we're talking about the
8 Hyatt Regency, and this is your -- the spreadsheet you
9 prepared for that property.

10 And we talked already about this first
11 scenario where you increased revenue amounts by a
12 specific percentage. Now let's turn to the third and
13 fourth scenarios, and that is in this third column.

14 And for this third and fourth scenario, you
15 kept the net operating income the same, but you made
16 slight adjustments to the capitalization rate; is that
17 correct?

18 A Yes.

19 Q Okay. And so in the before scenario, the
20 capitalization rate is 7.25 percent, and here in the
21 after it's 7.2 percent in the low and 7.23 percent in
22 the high. How did you derive these changes which
23 are -- how did you derive these changes in the
24 capitalization rate?

25 A Well, the capitalization rate is the

1 relationship between the sale price and the net
2 operating income, so it's a perception of investor
3 risk, the upside revenue potential that the property
4 may have in the marketplace. So recognizing that,
5 it's reasonable with this project completed that
6 there's going to be slightly lower investment risk
7 relative to the before condition in the market.

8 And, again, just, you know, based on judgment
9 and having looked at a lot of different sales and just
10 recognizing the locational difference between this
11 property and, say, other properties that we looked at
12 down closer to the waterfront, hotel properties, that
13 the capitalization rate change most likely would be
14 not as significant.

15 Again, it's just a judgment call looking at
16 the market, looking at market evidence, and based on
17 my experience, how an investor would look at it within
18 a range if they had to look at capitalization range.
19 Would they have the same cap rate as they did before?
20 I don't think so. I think they would reflect a lower
21 cap rate range to reflect the enhanced revenue that's
22 probable in the market, the investment risk, the
23 more -- just better investment amenity in the after
24 condition.

25 Q And were there any studies or reports that

1 specifically informed this analysis?

2 A There are capitalization studies that CBRE
3 puts out nationwide that covers a broad spectrum of
4 property types. They'll show variations from -- I
5 think they're done quarterly. They'll show variations
6 from quarter to quarter that can be relatively small
7 for different market sectors.

8 Again, it's just the perception of investment
9 risk and how the investors are looking at the market.
10 Also based on discussions with Mr. Lukens, is that
11 kind of cap rate change reasonable? And we looked at
12 elements like that and made a judgment call.

13 Q And so there's no model or equation that
14 you're relying on for these adjustments?

15 A No. There's no statistical modeling or
16 equation that we're looking at. It's just what we're
17 hired to do is make an appraisal judgment based on the
18 parcel-by-parcel basis, and given this particular
19 parcel's location and difference in the before and
20 after, it's just an estimate based on how we think the
21 market -- the range of how we think the market would
22 perceive a cap rate change.

23 Q And you testified that you believe these types
24 of cap rate changes -- and here it's .05 percent and
25 .02 percent -- that these are measurable in your

1 direct testimony. When have you seen these types of
2 micro adjustments in cap rates before?

3 A Well, any time we're -- you're looking at
4 sales, there will be slight differences in cap rate
5 changes depending on the location of the property.
6 They can be significant. They can be fairly small, so
7 just looking at thousands of sales over many years,
8 you see sometimes a small change in cap rate,
9 sometimes a large change in cap rate.

10 We're just simply trying to provide a
11 reflection of how the market would look at this if
12 they had to base -- if their decision was based just
13 solely on a cap rate change. Is it reasonable? It's
14 going to be less, again, trying to bracket that. Is
15 it going to be 7 percent? No. That's probably --
16 that's probably too drastic a change.

17 So just trying to bracket where we feel it is
18 reasonable based on the property's location and its
19 investment quality and the difference that it would
20 reflect in the market before and after the LID.

21 Q Can you give an example of when you've seen --
22 can you give an example of a factor that has produced
23 a cap rate change of .02 percent in the market that
24 you've seen?

25 A I just think any -- any investor -- if there's

1 a slight upside in revenue, they'll pay a slightly
2 lower cap rate for that investment. So, you know,
3 again, it's based on judgment and based on looking at
4 other sales. Cap rates, like I said, can range widely
5 depending on the type of property, but they can also
6 vary very little when you're confirming the sale.

7 Q And, again, because these are based -- these
8 cap rate changes are based on your hypothetical and
9 improvements are in place by October 2019, can you
10 opine as to what point over the period between 2019
11 and 2024 you'd expect to see the actual incremental
12 cap rate change for an owner that might be wanting to
13 either sell or refinance?

14 A I couldn't answer that. That's not an
15 analysis that we've done.

16 Q Quickly just going back to the scenarios one
17 and two, could you just give -- looking at this exact
18 property, so the Hyatt Regency, you've said that
19 you've looked at a lot of different sources that
20 informed these special -- these percentage increases
21 and that it came down to a judgment call.

22 Can you just name one study or report that
23 helped you with respect to this property develop this
24 special benefit percentage increase?

25 A Well, again, my scope of services to the

1 hotels was more on a review capacity. So I know that
2 Pricewaterhouse, CBRE, Kidder Mathews, there were a
3 number of sources looked at. Mr. Lukens helped
4 significantly in that regard in helping, you know,
5 look at probable adjustments and having more
6 experience in the hotel market than I do to help in
7 that aspect.

8 Q All right. Going down to the summary section,
9 which is down here, special benefit summary, so the
10 property -- the special benefit for this property
11 ranges from 2,000 -- sorry. 2,028,000 to it looks
12 like 5,090,000; is that right?

13 A That's correct.

14 Q And consistent with your prior testimony, you
15 arrived at this figure as a matter of judgment; is
16 that right?

17 A Yes. It's a reconciliation of the high and
18 low ranges of the properties we looked at and also to
19 maintain proportionality with other nearby hotels that
20 would have similar highest and best use.

21 Q Okay. And correct also that there's nowhere
22 in the report that we can actually see the analysis of
23 where -- how the reconciliation occurs; is that right?

24 A Well, you see it right in front of you. I
25 mean, that's where the reconciliation occurs. Again,

1 we haven't written a report that goes into our -- any
2 detail, but that's why we did individual worksheets
3 just to show the reader how we arrived at these
4 figures because we aren't writing a report. We want
5 to provide a summary of our thought process so a
6 property owner can have an idea of how we went about
7 looking at the different investment risk elements and
8 location changes and other factors that influence
9 value of property within the LID.

10 Q How would someone check your judgment against
11 data?

12 A How would they -- how would they check it --

13 Q Yeah.

14 A -- against data? They could look at
15 comparable sales and see if the before and after
16 values are supported by comparable sales data, which
17 they certainly are. That's a check we looked at as a
18 test of reasonableness was looking at comparable
19 sales. I think that would be your best check.

20 Q Do you know which comparable sales you looked
21 at to check this property?

22 A There were a number of sales out there. I
23 don't have the -- off the top of my head, you know,
24 there's the Alexis that sold, and Mr. Lukens testified
25 to that the other day. I just don't have them off the

1 top of my head, but there's a comparable sales list
2 out there that could be reviewed.

3 Q Okay. So let's just take the Alexis because
4 you mentioned that one. You would have had to make --
5 because the Alexis sale occurred a little while ago,
6 you would have had to make adjustments to that sale to
7 account for the before conditions and the after
8 conditions in order to make this comparable; is that
9 right?

10 A Correct.

11 Q Okay. And how were those adjustments made?

12 A Well, again, it would just be looking on the
13 context of the test of reasonableness, you know, how
14 it falls within the spectrum of what we see are
15 those -- would those kind of changes be reasonable
16 from an investment standpoint in comparing the Alexis
17 to, you know, a property like this, and the Alexis
18 probably isn't a great example.

19 It's more of a boutique hotel, but the same
20 kind of thought processes would be in play where you
21 would look at those sales within the test of
22 reasonableness and is this \$3.57 million -- or
23 \$2,800 a room sale price reasonable given the before
24 and after conditions that are prevalent in the market?

25 Q Right. But because there are no comparable

1 sales in the after condition or the before condition
2 because both of those are hypothetical, all of the
3 comparable sales you would use as a reasonable check
4 would require adjustments to account for those
5 hypothetical conditions; is that right?

6 A Yes. In any appraisal, you would make
7 adjustments if the properties had dissimilarities such
8 as location, investment risk, and things of that
9 nature, so yes.

10 Q And so going back to my question about how
11 someone would go about checking your judgment
12 conclusion based on data, how -- how would someone
13 know how you made those adjustments to those
14 comparable sales to determine that this was -- to
15 conclude --

16 A Like I said, we didn't -- like I said, we
17 didn't do a separate sales comparison approach where
18 we showed adjustments and whatnot. They were used
19 mainly as a test of reasonableness to support both our
20 before and after analysis, and somebody could look at
21 those and look at what the price paid per room is and
22 look at the before and after conditions and make their
23 own determination of whether they think that's
24 reasonable or not.

25 I mean, obviously, the vast majority of the

1 property owners downtown have felt we were reasonable
2 in our conclusions. They were very -- other than the
3 hotels, there were very few commercial properties that
4 protested the LID. So they have the ability to hire
5 an appraiser and review what we've done. There's been
6 at least a year and a half or so. The hotels could
7 have contacted us and said, hey, we think your values
8 are off, and we would have been happy to sit down and
9 talk to them and go through this process.

10 And if there was factual information they had,
11 we would have been happy to look at them. This is
12 the -- this is the analysis that we made, and that's
13 our opinion of what the market difference would be
14 given the before and after conditions.

15 Q So you end up concluding a special benefit
16 percentage of .49 percent, is that right, for the
17 Hyatt Regency?

18 A Yes.

19 Q And you previously testified that there's no
20 margin of error in this report or for mass appraisals
21 generally, no accepted margin of error. So looking at
22 this, would it be reasonable for two appraisers to
23 look at this information and conclude a special
24 benefit percentage of .7 percent?

25 A Well, I don't know. I mean, that would be --

1 that would be somebody else's opinion. I mean, when
2 we're looking at it, again, we're bracketing it and
3 saying, well, it's reasonable. We're probably going
4 to be somewhere between 5 million and 2 million. And
5 looking at the property's location and whatnot, it
6 would be up to the independent appraiser whether they
7 thought it was reasonable or not.

8 Q Would it be reasonable to come to the
9 conclusion based on this -- an appraiser is looking at
10 this -- looking at this information, would it be
11 reasonable for an appraiser to come to a negative
12 special benefit conclusion?

13 A I don't know, Ms. Lin, what a reasonable
14 appraiser would do. I did -- I did my work based on
15 my best judgment and looking at how we see the market
16 in the before and after conditions, and how somebody
17 else or for me to speculate on how somebody else would
18 look at it, I just can't answer that question.

19 Q I'm actually not asking you to speculate how
20 someone else would look at it. I'm more asking you if
21 it would be reasonable for two people to come to
22 certain different types of conclusions based on the
23 data right in front of us right now.

24 And so I guess a simpler way to ask this is:
25 Would it -- could one of your analysts have come to a

1 conclusion outside of this range and would that have
2 been acceptable as a final figure in this box right
3 here?

4 A Well, it wouldn't be acceptable in my opinion.
5 I don't know -- I don't know what basis they would
6 have formed their opinion on or whatnot, so like I
7 said, I did what I felt was fair and reasonable and
8 proportionate with other similar hotel properties.

9 Q Okay. So this range is from about 2 million
10 to 5 million; right?

11 A Yes.

12 Q Okay. So if we were to change this room value
13 right here, which is 365, to Mr. Gordon's stabilized
14 room rate for this hotel which is \$222, that changes
15 these special benefit amounts to be around 900,000
16 to -- ranging to 3 million; is that right?

17 A Well, you need to do that in the after
18 situation. You know, your after room rates are going
19 to change as well.

20 Q Right. But this spreadsheet does that for me
21 actually because --

22 A Yeah, true, true. Yeah, it would have -- it
23 would have an impact. Again, you would need to look
24 at that room rate, whether it's reasonable, look at it
25 in comparison to other sales, and see if it provided

1 any -- provided validity to a market value estimate.

2 But if you purely input his number like that, yes, but
3 that's not our appraisal work.

4 Q Do you have any reason to doubt any of the
5 other -- the accuracy of any of the other numbers in
6 this spreadsheet?

7 A Well, other than their estimates, I mean,
8 they're based on market information and in talking
9 with very qualified market consultants. So like
10 anything we do, they're an estimate.

11 Q Does this proposed assessment for the Hyatt
12 Regency include personal property?

13 A Yes. We -- most sales that -- most hotels
14 that sell typically sell with FF&E, furnitures,
15 fixtures, and equipment. So that -- that market value
16 estimate would have reflected that.

17 Q And so was all personal property in the LID
18 assessed for different types of property?

19 A No, just the hotels. That's how they
20 typically bought -- are sold in the marketplace.

21 Q So would that explain why, let's say, for
22 example Perkins Coie did not receive a LID assessment
23 based on its ownership of personal property located
24 within the LID?

25 A I don't know. That's not my area of expertise

1 in sending out notices. I just provide the market
2 value estimates before and after the LID and provide
3 that information, and that's what the assessments are
4 based on.

5 Q And for -- when you're assigning the special
6 benefit to personal property, did you calculate that
7 benefit at the same rate as the real property in which
8 it was located?

9 A We looked at the properties as an economic
10 entity, and furnitures, fixtures, and equipment,
11 personal property, is part of that economic entity.
12 So we didn't -- we have a sales chart that breaks out
13 approximately, if we had the information, what the
14 personal property versus -- versus the real estate is.

15 But because it typically sells with that in
16 place, in talking to Mr. Lukens, it's often a
17 negotiated factor of the sale price, but it's part of
18 the bundle of rights that are sold in the hotel
19 market. So we included them in our analysis.

20 Q So, in effect, everything is getting the same
21 rate, the -- everything is being assessed the same
22 percentage within that one legal entity, real property
23 and personal property, for each hotel?

24 A Yes.

25 Q So, for example, a television in the

1 waterfront Marriott would be assigned a greater
2 special benefit than a television at the Hyatt Regency
3 because the Hyatt Regency received a lower special
4 benefit percentage?

5 A Well, I don't know if you could break it out
6 by a TV set. Typically, like Mr. Lukens said, the
7 personal property is often something that's
8 negotiated, and I'm sure there's other depreciation
9 and other factors involved in it. So I don't -- I
10 don't think you could compare a hotel to one to a
11 hotel to the other.

12 It's part of the economic entity that sold,
13 and there are different room counts and other revenue
14 bases that are relevant to each hotel. It's just part
15 of the bundle of rights that we're appraising.

16 Q So talking about -- you just mentioned
17 depreciation. Is it reasonable to assign the same
18 special benefit to personal property, which is mobile
19 and highly depreciable, especially in hotels, as you
20 do for real property?

21 A Again, we're looking at the bundle of rights
22 and how hotels typically buy and sell. We had some
23 personal property information on some of the hotels,
24 not others. And in talking to Mr. Lukens, it's an
25 area that's often negotiated through the purchase and

1 sale process and can vary considerably. So it's part
2 of the rights that we valued both in the before and
3 after LID.

4 Q Mr. Gordon talked a little bit about this, but
5 I'm not sure that -- you might have heard this. You
6 might not have heard this testimony.

7 Do you know the economic life suggested by the
8 Department of Revenue to assessors in valuing hotel
9 personal property?

10 A No, I don't.

11 Q So does five years for televisions and eight
12 years for furniture and equipment seem right to you?

13 A I don't -- I don't know, Ms. Lin. As I said,
14 in talking to Mr. Lukens, he said these are often
15 negotiated, and that's probably why because there are
16 varying degrees of ages of the different furniture,
17 fixtures, and equipment that are in -- that are
18 relative to each hotel.

19 Q So assuming these are the correct numbers,
20 five years for televisions, eight years for furniture
21 and equipment, why would a personal property in place
22 on the assessment date benefit from improvements that
23 will not be in place until after or near the end of
24 the useful life of that property?

25 A Because we're basing it on the assumption as

1 of a given date and time, not five years hence.

2 Q All right. Let's take a look at another
3 spreadsheet. I'll go ahead and keep sharing these
4 spreadsheets because it seems to be helpful. We're
5 going to look at Exhibit 120, which is the spreadsheet
6 for the Grand Hyatt.

7 Okay. So is this the spreadsheet that you
8 prepared for the Grand Hyatt?

9 A Yes.

10 Q And the address up here looks like it's
11 721 Pine Street?

12 A Yes.

13 Q And it looks like you assumed an average daily
14 room rate of \$355 per night?

15 A Yes.

16 Q Again, this is based on things like Expedia,
17 Booking.com, and not based on actual data from hotels
18 or STAR reports?

19 A That's correct.

20 Q Are you aware that the actual room rates for
21 this hotel in 2018 was \$250?

22 A Again, I have not seen that information.

23 Q But if you had, would that change your
24 analysis for this hotel?

25 A If I had time to evaluate it and see where it

1 came from and if it wasn't a hybrid of other reports
2 or how it was derived and if it was credible, it would
3 be a consideration in our analysis, sure.

4 Q Okay. Similar with the Hyatt Regency, if
5 Mr. Gordon is correct that these room rates are pretty
6 off, your analysis for this hotel might need
7 adjustment?

8 A Well, it could. Again, we would look at that
9 information, and we'd also look at other sales. And
10 if it reflected a value that was well below what other
11 similar sales would go to, we may make adjustments to
12 that. It would be a separate appraisal process that
13 we would go through to determine what the benefit is.

14 Q When you're looking at comparable sales,
15 that's as a reasonable check; correct?

16 A Yes.

17 Q Meaning you're not using a --

18 A In this case --

19 Q -- cost approach for the --

20 A In this case -- in this case -- in this case
21 primarily because we didn't -- we didn't do a separate
22 sales analysis, but we -- we looked at them as a test
23 of reasonableness what the conclusions came up with
24 for our income approach.

25 Q And for hotels it's typical to use an income

1 approach?

2 A Income approach and a sales approach.

3 Q It appears you've used an income approach
4 here. You've chosen to use an income approach here;
5 correct?

6 A We chose to do an income approach for most of
7 the commercial properties and augment that with
8 comparable sales. So this is typical of how we looked
9 at how the market would most likely react in
10 estimating a before and after value would be to do an
11 income approach and then also look at comparable sales
12 to see where that fell within -- within the spectrum
13 of the property type you're evaluating.

14 Q Okay. But if I were to look at your final
15 report and I were to try to figure out what approach
16 are you taking with respect to hotels, it would say
17 income approach; is that right?

18 A It would say income approach and direct sales
19 comparison approach, but we're using the direct sales
20 comparison approach more as a test in reasonableness
21 to see if the conclusions derived from the income
22 analysis reflect the buyers and sellers' thought
23 process in the market.

24 Q And where can we see this comparable sales
25 data that you're using for each of these hotels as a

1 reasonable check?

2 A Well, I think Mr. Lukens provided a comparable
3 chart as well as what we have in our backup data.

4 Q And was that -- was that chart provided with
5 his declaration?

6 A I don't know exactly. I think he provided one
7 to us, and he may have provided one in the
8 declaration. I can't recall.

9 Q And was that one single chart used as a
10 reasonable check for all of the hotels?

11 A Whatever -- whatever hotels were relevant in
12 the marketplace at the time would have been covered on
13 that -- on that chart.

14 Q Was that provided as part of your final study?

15 A It should have been in our -- the chart that
16 he provided should be in our backup data. I know it
17 should be because he provided it to us before
18 finalizing our study, and then I know we have a hotel
19 chart in there as well.

20 Q All right. So let's do the same thing here.
21 We'll change this \$355 room rate to the stabilized
22 room rate that Mr. Gordon calculated based on actual
23 room rates from the hotel, and that was 240.

24 Actually, sorry. Let me -- let's go back to
25 355. At 355, the special benefit range from

1 \$2,331,000 to \$4,712,000, so about 2.3 to 4.7 million.
2 Change this to 240, the range changes from 1.3 million
3 to 3.2 million. So it does appear that changing room
4 rate alone produces pretty significant change in using
5 all of your data and all of your methods; is that
6 correct?

7 A Yeah, assuming -- assuming other factors --
8 assuming the other factors are correct. Excuse me a
9 second.

10 Q So it's possible your other factors here are
11 also incorrect?

12 A Oh, I'm not saying they're incorrect.
13 Assuming that -- that -- that Mr. Gordon or whatever
14 the hotel operating expenses showed were relevant to
15 those.

16 Q Okay. It looks like this one has some --
17 okay. Moving over to scenarios one and two, it looks
18 like the special benefit estimates here are .6 percent
19 and 1.20 percent. Was your analysis here different
20 than with the Hyatt Regency, meaning were there
21 different studies and data that informed this specific
22 percentage increase?

23 A Same thought processes for the Hyatt Regency
24 would have gone into this hotel.

25 Q Okay. And is that generally true for all of

1 the commercial properties?

2 A Yes. And it's based on -- it's based on our
3 judgment and how we would look in the market, how
4 other similar projects and other similar cities
5 reacted to the various property types.

6 Q Okay. And you used these same percentage
7 increases to increase room revenue and food and
8 beverage revenue, but parking and other income is
9 not -- is not included here. And that is because
10 there is a separate parcel in this hotel for parking;
11 is that right?

12 A Yes.

13 Q Okay. And for the third and fourth scenario,
14 same thing, you changed the cap rate. For these cap
15 rate changes, was your analysis similar to your
16 analysis with the Hyatt Regency? And, specifically,
17 are you relying on similar data and studies?

18 A Same type of thought process.

19 Q Okay. Let's go to the next spreadsheet, and
20 this is the Hyatt parking. This is Exhibit 121. And
21 is this your spreadsheet for the Grand Hyatt parking
22 retail parcel?

23 A Yes.

24 Q And same address, correct, 721 Pine Street?

25 A Yes. That would have come from the assessor's

1 office. The physical address may have been slightly
2 different.

3 Q Okay. Have you visited this parcel, the
4 exterior of the Grand Hyatt?

5 A I've stayed there many, many times.

6 Q So just walking around, can someone tell that
7 the parking and retail parcel is separate from --
8 legally separate from the hotel?

9 A Well, I think the hotel would sell as a bundle
10 of rights. I think anybody -- anybody buying the
11 property would buy it as an entity and not split it
12 out.

13 As I said earlier in my direct testimony, we
14 have to look at what we call is the larger parcel, and
15 we looked at this property as being a larger parcel.
16 Whereas the market would buy it as an entity, but
17 because they're separate legal tax parcels, we need to
18 provide separate analysis, separate benefit, and
19 assessment estimates for them.

20 Q And it looks like this has 950 parking stalls;
21 is that right?

22 A Yes.

23 Q And you're assuming that the Grand Hyatt is
24 leasing stalls and is specifically leasing 457 stalls;
25 is that right?

1 A Yes.

2 Q And this 457 stalls is generating revenue at
3 80 percent occupancy 365 days a week?

4 A Excuse me. I think this -- can you go back?
5 This may be a separate legal ownership. I can't
6 remember. It's been a long time since I've looked at
7 this spreadsheet.

8 Q Sure. What would you like me to do?

9 A It was a separate legal ownership from the
10 previous study. We would have been looking at this as
11 a -- as a separate entity.

12 Q Oh, so are you saying who is the taxpayer?

13 A Well, who is the property owner? So it looks
14 like there's two different legal entities that own
15 each of the properties. So we would be looking at
16 them as two separate -- as two separate entities.

17 Q And you're looking at them as two separate
18 entities because there are two -- because --

19 A Separate legal ownerships.

20 Q Separate legal ownerships?

21 A (Inaudible) as best as we can tell. This
22 property is incredibly difficult to break out due to
23 the nature of how it's set up, but the parking and
24 retail is a separate entity, Seventh and Pine, LLC,
25 versus the Hedreen, LLC.

1 Q Okay. And so going back to parking stalls, so
2 all 457 stalls are generating revenue at 80 percent
3 occupancy 365 days a year; is that right?

4 A That's how the math is set up, yes.

5 Q Okay. And so every hotel guest is assumed to
6 be occupying a parking stall?

7 A Well, no. We're looking at a 20 percent
8 vacancy on parking for the 457 stalls, and then we're
9 backing out --

10 Q Right.

11 A -- the expenses.

12 Q Right. So the 20 percent occupancy is because
13 the hotel occupancy rate is 80 percent; right?

14 A Yeah, correct. It's the same percentage.

15 Q Okay. So every hotel guest is assumed to be
16 occupying a parking stall because you're using the
17 same occupancy?

18 A Yeah. At a stabilized rate, yes.

19 Q Okay. And then the nonguest parkers are --
20 which are the monthly parkers, are occupying the
21 remainder of the stalls at \$320 a month, so that's
22 just a little over \$10 a day?

23 A It looks about right.

24 Q So for the hotel parcel, if you recall, in
25 scenarios one and two, you increased revenue by --

1 room revenue by 0.6 percent in the low and 1.2 percent
2 in the high, and here you have an increase by
3 1.4 percent and 1.6 percent and the same thing for the
4 retail income.

5 What is the basis for these percentages?

6 A The same thought process goes into place. And
7 you have a retail component there too, which would
8 maybe have a little bit more desirable from the ground
9 level nature of the retail there. Again, it's just a
10 judgment call based on our perception of the market.

11 Q If you had been consistent among the different
12 hotels, would we have seen a similar percentage
13 increase for the parking and retail income here but
14 for the fact that this happens to be a separate parcel
15 with separate legal ownership?

16 A Well, again, we're just -- we're looking at --
17 we're looking at this, evidently, because it is a
18 separate ownership and it's broken out into -- as you
19 can see up top, there's -- there's various ownership
20 interest.

21 You've got the convention center. You've got
22 the hotel component, and then you've got the separate
23 legal entity of the -- of the parking/retail
24 component. So for informational purposes, we kind of
25 showed how unique this particular property is in

1 breaking out into the different percentage ownerships.

2 So in this -- in this case we're looking at
3 the Seventh and Pine, LLC, the parking and retail, as
4 a separate entity, and those high and low rates are
5 estimates of revenue change before and after the LID
6 due to where the property is situated.

7 Q I understand that, but it appears -- I guess
8 my question is: If this parking income and retail
9 income had been part of the same parcel as the legal
10 parcel as the Grand Hyatt Hotel, we would have seen
11 the same percentage increases; correct? And those
12 would have been .6 percent and 1.2 percent?

13 A Potentially. Again, if you look at it, it's a
14 separate legal ownership, and it's not -- we're
15 looking at it as a separate legal entity. So we've
16 got a slightly different high-low range that we're
17 looking at for this particular property based on its
18 attributes.

19 Q Are you aware that the Four Seasons Hotel also
20 occupies multiple parcels?

21 A Yes, yes. There are three -- I think there
22 are separate tax parcels that comprise the Four
23 Seasons.

24 Q And, similarly, those -- those parcels, some
25 of them have to do with parking and retail. Some of

1 them have to do with the hotel itself; is that right?

2 A Yeah. And I believe some of the parking, if I
3 can remember, is part of the condominium development.
4 So it's another unique, complex property.

5 Q And for that hotel, do you recall whether you
6 also applied different special benefit percentages for
7 those different parcels?

8 A I don't recall.

9 Q And for the cap rate here, you started at
10 7.25 percent over here; right? Yes. 7.25 percent in
11 the before -- in the before scenario. Typically,
12 wouldn't parking lots be capitalized at much lower
13 rate, for example, 4 percent?

14 A No, I don't think so. This has also got a
15 retail component to it as well, so I think it's a
16 reasonable cap rate.

17 Q Did it affect your analysis that that hotel
18 parcel also is capitalized at 7.25 percent?

19 A Yeah. It's just our estimate for this
20 particular property.

21 Q And then you changed the cap rate to 7.13 and
22 7.15 percent in the high-low scenarios. Again, had
23 these -- had these been one parcel and one legal
24 ownership, this NOI would have been capped at 7.11 and
25 7.17 percent as with the hotel itself; is that right?

1 A Well, it's not a -- it's a separate legal
2 entity, so we looked at it on a separate legal entity
3 basis. And we ended up coming up with a different
4 change.

5 Q I understand the separate legal entity, but
6 you just testified also that you looked at it as sort
7 of one whole to come up with the 7.25 percent cap
8 rate?

9 A I corrected myself on that, if you remember
10 also, that I remembered that it was a separate legal
11 entity, so we did look at it separately. If you go
12 back up to the top to the breakout of all the
13 ownership interest, the convention center is also part
14 of the ownership entity interest.

15 So, obviously, we're not -- we're not looking
16 at it as one entity, because we're not including the
17 Washington Convention Center as part of our -- part of
18 our analysis. So the hotel was looked at as one
19 entity, and then the Seventh and Pine, LLC, was looked
20 at as a separate entity because the parking and retail
21 components.

22 Q Do you think a buyer of this property would
23 assume this increase in parking revenue coming in 2024
24 if they were purchasing the property today?

25 A Well, again, we're looking at it as of a

1 specific date and time. I'm not valuing it as of
2 2024, so this is our estimate of what it would be as
3 of our valuation date.

4 Q And then going to the summary here, it appears
5 you conclude an overall special benefit increase of
6 1.49 percent. Was this influenced at all by the fact
7 that your hotel parcel also -- I switched -- changed
8 this. Your hotel parcel was at 1.5 percent?

9 A Well, we're just trying to maintain
10 proportionality and looking at other similar
11 properties. I think if you looked at other similar
12 parking garages in the area that are nearby there, if
13 they're broken out as a separate entity, they would be
14 fairly close to that change.

15 Q And so you might have -- well, let me ask this
16 a different way. Would you have a disproportionality
17 issue if these two parcels, Grand Hyatt Hotel/Grand
18 Hyatt parking, had come to a different special benefit
19 percentage? Would that have triggered a
20 reconciliation internally?

21 A Well, the statutes reflect a roughly
22 proportionate amount, and, I think, you know,
23 obviously, part of the parking element goes to the
24 hotel. That would be part of the bundle of rights to
25 this particular property, and part of it would go to

1 the public.

2 Again, that's part of the bundle of rights of
3 the property, a separate percentage ownership of a
4 larger entity that also includes the convention
5 center. So, you know, it's a unique -- it was a
6 unique property. We felt that that change was
7 indicative of the market.

8 Q So there was no attempt -- when you were
9 looking at this -- when you were looking at the Grand
10 Hyatt Hotel parcel, did you look at this parking and
11 retail parcel in tandem with that other parcel?

12 A Well, no. We looked -- because it is a
13 separate legal entity, we had to value it on that
14 basis. We can't assume two different ownerships are
15 what they're not. And so if they would have had this
16 same ownership interest, then they would have been
17 looked at as one entity.

18 They had -- if they don't have unity of
19 ownership, I can't look at it as a larger parcel,
20 although they do have some -- there is some parking
21 use associated with the property, obviously, by
22 agreement with the hotel. So it's a unique,
23 challenging property to appraise.

24 Q Sure. Are you aware that for the Four Seasons
25 those three parcels also came to a special benefit --

1 an identical special benefit percentage conclusion?

2 A I don't recall that, but it's --

3 Q If that were true, would that be a matter of
4 coincidence or would that be --

5 A I just think --

6 Q -- for proportionality's sake?

7 A It would just be our estimate of how the
8 market would react to the unique aspect of that
9 ownership interest.

10 Q Okay. I am done with this, so we're actually
11 going to hop into Exhibit 122, which is your
12 declaration. And I'm going to pull that one up as
13 well because I would like to ask an interactive
14 question about it. It's Exhibit 122 for those of you
15 who are following along.

16 HEARING EXAMINER VANCIL: Ms. Lin, I
17 just want to check on timing with you for amount of
18 time you estimate for continuing with your cross with
19 Mr. Macaulay.

20 MS. LIN: That's a good question. I'm
21 hoping to be done by 4:00.

22 HEARING EXAMINER VANCIL: Okay. Does
23 that match with the time allocation that you've worked
24 out with the other objectors or are you over or under?

25 MS. LIN: So with the breaks right

1 now -- I estimated five hours for Perkins of
2 cross-examination time, and so I believe that takes --
3 so I guess that would be more like 3:45 rather than
4 4:00.

5 HEARING EXAMINER VANCIL: But you're
6 still within the same amount of time that you
7 estimated earlier roughly?

8 MS. LIN: Yeah, correct.

9 HEARING EXAMINER VANCIL: Okay.

10 BY MS. LIN:

11 Q Okay. So you've testified that to determine
12 the LID boundary and to estimate special benefit you
13 and your team looked at over 25 studies and reports,
14 and that is on -- in paragraph 13. And then you
15 provide a link saying that these have been publicly
16 available.

17 So I just wanted to ask you if you could walk
18 us through exactly where -- where these are located.
19 So here's the link. I just opened the link. And if
20 you see, there's a file tree. And I'm wondering,
21 these 25 studies and reports, in which of these
22 folders are these 25 reports? Is it this?

23 A They should be under the research -- it's just
24 a separate file that says research.

25 Q I don't see a separate file that says

1 research.

2 A They might have renamed it. Try 2019 report
3 info.

4 Q Okay. So I will do -- I will do that. I can
5 do that, although it might take a little while because
6 it has to download. So I actually already downloaded
7 this, so let me pull that up. Sorry. It's still --
8 somehow I've lost it. Apologies. I will find it in
9 one second.

10 Okay. So this is -- this is what happens when
11 you download the 2019 report info. You get these --

12 A Yeah.

13 Q You get these three -- sorry.

14 A Yeah. And then you go into each one of those,
15 and you'll see other reports that will propagate.

16 Q So there's three in here. Are these three
17 that you relied on?

18 A Yes.

19 Q Okay. And then there are --

20 A And then -- for instance -- then go back --
21 for instance, if you go into the 2019 and other
22 information reports, there's three there, and then go
23 into the 2019. And then there's another one, two,
24 three, four.

25 Q Seven.

1 A Seven, yeah.

2 Q Okay. And you relied on these reports as
3 well?

4 A Yeah. We looked at all of that information,
5 and then you go back to previous reports then --

6 Q So I guess if you go into previous reports,
7 you actually get a lot more information. So you get a
8 lot more than 25. I'm sorry.

9 A Yeah.

10 Q So these are the 25 -- when you're trying to
11 direct us to 25 studies and reports, this is the
12 folder you wanted us to look at?

13 A Yes. That appears where everything got put.

14 Q Okay. And then when you say 2019 reports
15 cited in the complete report, these are the ones that
16 actually appear in the final study?

17 A It should be, yes.

18 Q And are these the ones that you relied on more
19 heavily, and is that why they appear in your final
20 study?

21 A Not necessarily. We were trying to write the
22 report in the context of a summary, and so there's a
23 lot of information we would have considered. But just
24 trying to write a -- instead of writing a 500-page
25 report, we wanted to keep it summarized and concise.

1 So we just limited the number of studies that we
2 looked at. We didn't go into in-depth of all the
3 studies.

4 Q And how did you choose which ones to include
5 in your final study?

6 A Just based on ones we thought would show the
7 most relevance in the sense of major park improvement
8 projects in CBD areas that we could use for comparison
9 purposes to the subject, and then there were a number
10 of other studies that had streetscapes.

11 And then there were other studies that showed
12 that we didn't use or include in here that -- I think
13 there was Toronto and some other studies that we
14 wouldn't have even included in our backup data that we
15 looked at. So there was a wide variety of information
16 that we looked at.

17 Q But it's included in this folder and in terms
18 of the reports and studies that you're talking about
19 in paragraph 13 of your declaration?

20 A These are -- if you clicked each one of those
21 and then went into all the individual reports, there
22 are subreports that are within each of those. Those
23 would be the prime amount. They would be the most
24 significant reports we looked at for background that
25 we have for background purposes in our file.

1 Q And what is previous reports? And I'll --

2 A It would have been done previously.

3 Q And when you say "previously," what do you
4 mean?

5 A Well, what I mean is like for the formation
6 study.

7 Q I see.

8 Do you typically -- do you typically look at
9 underlying methods and data before relying on a study
10 or report to ensure it is reliable and relevant?

11 A Well, we certainly formulate a good base of
12 information within the Seattle market to have good
13 reliability upon income, sales, a lot of confirmation
14 of that data.

15 Q Okay. So is the answer to that, yes, we do
16 look at the methods and data underlying the study or
17 report to make sure it is reliable and relevant?

18 A Well, we look at a broad spectrum. Because
19 the -- because the property has so many different
20 elements to it, we try to look at a broad spectrum of
21 studies that have similarities to the project that
22 we're comparing it to so that we uncover all the
23 unique aspects or as much as possible of the subject
24 market elements in comparison to what's been done in
25 other areas.

1 Q Sure. I understand. I think I'm asking a
2 slightly different question, so let's pretend you're
3 looking at one study. You're looking at the HR&A
4 study. Would you typically look at the underlying
5 methods that HR&A use in their data in order to ensure
6 that that one study is reliable and relevant to your
7 analysis? And for each of the studies, would you
8 typically do that?

9 A Well, we would -- we would look at what their
10 conclusions are. I mean, HR&A is highly respected and
11 has done studies all over the country, so they have
12 their own methodologies in determining things such as
13 tourism and whatnot.

14 So we would consider how they -- and we did
15 consider how they looked at tourism, for instance.
16 That was one of the main components that we looked at
17 for that study. There was a lot of other economic
18 information in there, but we were hired to estimate
19 the difference in value of the property and the impact
20 of the property -- the before and after on market
21 values.

22 The HR&A study had a lot of information on it.
23 The tourism aspect was one of the ones we considered
24 more prevalently in that report than some of the other
25 economic study information we had, although it was

1 helpful.

2 Q And --

3 HEARING EXAMINER VANCIL: Ms. Lin.

4 Q -- would you typically also then --

5 HEARING EXAMINER VANCIL: Ms. Lin.

6 MS. LIN: Yes.

7 HEARING EXAMINER VANCIL: Question, I
8 think we were a little lax about introducing the last
9 item that you were using that you went off of to make
10 sure that that was preserved for the record. You
11 indicated an exhibit number and then flipped through a
12 bunch of folders on your computer, and we've got it on
13 the visual record. But as far as the transcript,
14 describing what you did there might be a little
15 problematic. And we've just gone off it, so it
16 doesn't seem like we preserved that well.

17 Did you identify that -- was that a specific
18 exhibit number or how do we describe what you just
19 did?

20 MS. LIN: So what I did was I went into
21 Mr. Macaulay's declaration, and in paragraph 13 he
22 provided a link to studies that he relied on. I
23 clicked on the link.

24 HEARING EXAMINER VANCIL: So
25 Mr. Macaulay's declaration, which is Exhibit 122, has

1 a link in it?

2 MS. LIN: Right, correct.

3 HEARING EXAMINER VANCIL: And you just
4 gave a page number or was it a paragraph? Thirteen,
5 did you say?

6 MS. LIN: Paragraph 13.

7 HEARING EXAMINER VANCIL: Okay. And
8 that's where we can find that link to the folders that
9 you were moving through?

10 MS. LIN: Correct.

11 HEARING EXAMINER VANCIL: Okay. Thank
12 you. That should do it.

13 BY MS. LIN:

14 Q So you testified that, just summarizing where
15 we were, you do -- you will look at underlying methods
16 and data to the extent it is relevant to determine
17 whether a study like HR&A is reliable and relevant to
18 your analysis.

19 Will you also typically make adjustments if
20 the underlying data or analysis differs from the
21 market or the project or the properties you are
22 looking at?

23 A The studies were mainly used for background
24 purposes to see how the market was functioning in the
25 various elements that are attributable to the subject

1 LID. So we would -- we would -- from background
2 purposes when we're looking at a property in the
3 Seattle market, we may use that study as background
4 information to help inform us to make adjustments.

5 Q Okay. So you did a parcel-by-parcel approach.
6 How is this background information from each study
7 incorporated into your parcel-by-parcel approach in
8 your analysis for each parcel?

9 A Well, again, we're looking at -- we're looking
10 at the project as an entity of six components, and
11 those six components have a lot of different
12 attributes to them as we've mentioned earlier. And
13 these studies have different elements of similarity to
14 different parts of the six project elements that we're
15 looking at for the LID project. So we tried to look
16 at as many different studies that showed, for
17 instance, you know, streetscapes, open --

18 Q Yeah, I understand that. Sorry. I'm going
19 to -- because I think you might have misunderstood my
20 question. So how is the information from each of your
21 studies incorporated into your analysis for each
22 property given that you did a property-by-property
23 approach?

24 A Well, again, it's just used to inform us. So
25 when we go in and do a parcel-by-parcel analysis we

1 have some background to base decisions on. So
2 there's -- you know, we didn't break out each study
3 and try to do a direct comparison with the subject
4 project elements because there's no one property was
5 identical to the subject. So that's why we were
6 trying to look at elements.

7 And then within that, use the background
8 information to help us better understand how the
9 market is reacting to these types of improvements,
10 changes, that are undertaken through the construction
11 of these types of open spaces and streetscapes and
12 things of that nature.

13 Q So maybe you could just take me through your
14 analysis for one property, and that would help me
15 understand. How about one of the condos -- how
16 about -- how -- let's say you're trying to figure out
17 the before and after value for one of these condo
18 buildings. How are you incorporating information from
19 each of these 25 and more studies into your analysis
20 for that particular condo building?

21 A Well, the studies that would be most
22 indicative of that would be ones that deal with the
23 relationship of residential properties to open space.
24 You know, they provide a range of what they saw in the
25 market for various different elements of open space,

1 and then we also looked at, well, streetscapes. We
2 have studies there.

3 So, again, just as we did with any worksheet
4 we did, we would break it down into a range in value
5 in the before and arrive at a market value conclusion
6 based on the fact that the viaduct is gone and Alaskan
7 Way is constructed and do the same mental process in
8 the after and arrive at a market value conclusion.

9 Q So the best you can remember, exactly which
10 studies informed your analysis for, let's say, a condo
11 building?

12 A Well, the Crompton study was utilized. There
13 was a local -- I think it was Land Conservancy study
14 that was done on parks. There were a number of other
15 studies that were done, proximity studies that were
16 done involving different areas of the country in park
17 improvements.

18 So there's a pretty good spectrum of
19 information relative to the residential market and its
20 impact on open space and green space and walkways and
21 bike lanes and things of that nature.

22 Q And so, again, the best you can remember, what
23 are the exact studies and reports you relied on to
24 inform your hotel analysis?

25 A Again, my aspect -- my scope of services for

1 the hotels was more of a review process. I would
2 remember different studies we put in our market
3 research at the end of our report that we had studies
4 from CBRE, Kidder Mathews, I think Pricewaterhouse,
5 and some others, and, again, relying on Mr. Lukens's
6 background and knowledge from doing hotel valuations.

7 Q Would you have also considered HR&A which
8 estimates an increase in tourism?

9 A That's something we looked at just to see if
10 these types of projects increased demand for tourism,
11 and that's something we considered in our analysis.

12 Q And your final study cites --

13 A I would also like to say that also -- that it
14 does also affect the retail market as well as the
15 hotel market, so it's not just specific to the hotel
16 market.

17 Q Understood. And your final study not only
18 cites to the HR&A report, but it has a short summary
19 of it; is that correct?

20 A I believe in the context of our report, yeah.
21 We have HR&A study on our background information that
22 people could review, and then I believe we do have a
23 summary of it in the context of the report.

24 Q And, correct, that you relied on this report
25 to estimate the economic impact of projected increased

1 tourism as a result of the LID improvements?

2 A It was one of the elements we considered, yes.

3 Q And this is in your final study at page 45,
4 which is C-17, but for ease of -- for those of you who
5 want to follow along in the final study, but I'll just
6 summarize. You write that the HR&A study estimates
7 that there are currently 8 million annual visitors to
8 the existing Waterfront and concludes that the
9 Waterfront improvements will potentially add
10 1.5 million net new visitors generating an estimated
11 191 million in new annual visitor spending; is that
12 right? Does that sound correct?

13 A Yeah, yes.

14 Q I think you already went over this, but the
15 HR&A study is not just analyzing the LID improvements.
16 It's analyzing all the Waterfront projects; is that
17 right?

18 A Yeah. It analyzes some elements that are not
19 in the LID. I think it includes Pier 62 and 63 and
20 the aquarium. The aquarium would be there both in the
21 before and after, and there's some elements that
22 Columbia Street, I think Seneca, and some other
23 improvements that it does include that are outside the
24 LID.

25 And then, like the Colman Dock, the DOT

1 jurisdiction elements of the project, it excludes. So
2 it covers most of the main components, and then -- it
3 covers most of the main components in the LID but also
4 includes a few others that aren't.

5 Q Okay. And is there any analysis in the HR&A
6 study of visitors who are coming to Seattle for
7 reasons other than to visit the Waterfront LID
8 amenities?

9 A Oh, sure. I think they're looking at a
10 capture rate of about 1.5 million people that they
11 can -- they can attribute to the elements of the LID
12 or close proximity to the elements of the LID that are
13 within that.

14 Q And so it's your understanding that
15 1.5 million people per year are going to visit Seattle
16 for the sole purpose of visiting the Waterfront LID
17 amenities -- for the primary purpose of visiting the
18 Waterfront LID amenities?

19 A That's their estimate. That is their -- that
20 is their estimate, yes.

21 Q Sorry. You cut up a little bit there. Are
22 you saying: That's their estimate, yes?

23 A Yeah, Ms. Lin. I just got a -- can you hear
24 me? I got a -- my connection -- Mark, something --

25 HEARING EXAMINER VANCIL: We'll hold

1 for just a minute while Mr. Macaulay gets reconnected.

2 We'll hold until you get reconnected.

3 Okay. Mr. Macaulay, let's repeat your answer.

4 This is part of the process of being in a remote

5 hearing sometimes. Repeat your answer to the

6 question, please.

7 THE WITNESS: Yeah, no problem.

8 Ms. Lin, if could you please repeat the question, that

9 would be great.

10 BY MS. LIN:

11 Q Sure. So it's your understanding that HR&A's

12 estimating 1.5 million new net visitors to Seattle

13 annually, and those visitors are coming primarily to

14 visit the Waterfront LID amenities?

15 A No. She cut out again.

16 HEARING EXAMINER VANCIL: Okay.

17 Ms. Lin, repeat the question. We're going to -- we'll

18 take a break if we're not able to get Mr. Macaulay

19 back, but his connectivity is going between poor and

20 medium. So he's not completely out yet.

21 Ms. Lin, if you can repeat the question one

22 more time. And, Mr. Macaulay, try to capture the

23 question so that we don't have to -- she's repeated it

24 several times, and you had it at one point. You gave

25 an answer, and now she's repeating it again. So we

1 don't want to keep this ball rolling down the field.

2 BY MS. LIN:

3 Q Mr. Macaulay, can you hear me?

4 A Yes.

5 Q Okay. So it's your understanding that the
6 HR&A study estimates that one point million new net
7 visitors will come to Seattle primarily to visit the
8 Waterfront LID amenities?

9 A They estimate 1.5 million in their 2019 study,
10 I believe.

11 Q Did you use this information at all to inform
12 your special benefit increases in the spreadsheets?

13 A Yes. It showed that most likely there will be
14 an increase in supply for hotel rooms, increased
15 tourism for retail. And, you know, it was consistent
16 with other studies we looked at with Boston, New York,
17 and so forth, but the projects like this create an
18 additional tourism flow.

19 Q Okay. And did you use this information to
20 help you determine residential condo assessments?

21 A This information would have been primarily for
22 looking at properties -- property types that rely more
23 heavily on tourism such as hotels, retail. It -- if a
24 condo had a retail component to it, it would have been
25 more relevant to that.

1 Q Okay. We're going to look really quickly at
2 Exhibit 123, which is the 2019 HR&A report, and if
3 you'd like, I can just -- would you like me to share
4 screen again?

5 A Sure, if it is easy for you to do that.

6 Q Sure. Is this the study that you relied on?

7 A Yeah. I can't see the far right, but if it
8 was the 2019 study, it would be the correct study.

9 Q Okay. And do you know if there's an
10 underlying report other than this summary PowerPoint?

11 A That is what I have reviewed.

12 Q Let's go to Slide 83. So HR&A estimates that
13 the total visitors to Seattle as a result of all the
14 Waterfront projects is 8 million, and this is a
15 straight average from data from these -- these large
16 iconic parks from -- in cities like San Francisco, New
17 York, Chicago, Boston; is that right?

18 A Yes.

19 Q And then in the next line -- it's line 84 --
20 it says HR&A then estimated the share of regional
21 versus out-of-town visitors and how much time these
22 visitors might spend in the park, and then it has a
23 note at the bottom.

24 It says: The distribution of visitors
25 percentage regional versus tourist is based on comps

1 from High Line and Hudson River Park.

2 Do you know where High Line and Hudson River
3 Park are?

4 A Yes. They're in New York.

5 Q And is there any indication that the tourism
6 market in Seattle is similar to New York City?

7 A Well, I talked to Olivia Moss who is with HR&A
8 about the study and about how they came up with the
9 capture rate of the 1.5 million visitors, and they
10 said it was -- the amount of visitors was based on
11 numerous cities more so than what's shown there.

12 And then the capture rate of 27 percent was
13 based on the Long Wood tourism study that was done in
14 2016. So they compared tourism to a variety of other
15 cities, from what she said, more so than just New
16 York, and it would have been -- I think back to the
17 other slide you looked at, it would have been another
18 wide variety of similar parks would have been done,
19 Boston, New York, Chicago, Toronto, and parks of that
20 nature that they would have applied it to the amount
21 of tourism.

22 She said they didn't. They looked at other --
23 it was similar to what we did. They looked at other
24 similar park projects and compared them to the
25 Waterfront Seattle project and made an estimate based

1 on that of the 1.5 million visitors.

2 Q Understood. So this distribution of
3 percentage regional versus tourists, that's based on
4 parks from outside of Seattle, but the distribution of
5 day visitors versus overnight is based on local data,
6 this Long Wood tourism study; is that right?

7 A Yes.

8 Q Okay. Let's turn to Exhibit 124. I'll just
9 go ahead and -- so this is a study called the Economic
10 Benefits of Seattle's Park and Recreation System done
11 by the Trust for Public Land. Have you ever seen this
12 before?

13 A Yes. It's in our background information.

14 Q And so did you consider this study?

15 A Yes. I just mentioned that I did in looking
16 at the -- the residential market, the condo market.
17 We looked at that, Crompton's report. There were a
18 number of other studies that were in our background
19 information -- background information that covered a
20 broad spectrum of other similar projects that we used.

21 Q Why was the HR&A study summarized and cited in
22 your final study but this one wasn't?

23 A Well, again, we're trying to summarize --
24 summarize what we did, and relative to the residential
25 market, we thought the Crompton study was more

1 relevant and more highly used in the market. So even
2 though this is in Seattle, we just -- we didn't put it
3 in the report, but we had it in our background
4 information. So it's something we considered.

5 Q So let's go to page 3, which is really page 5
6 of the pdf. Are you aware that Trust for Public
7 Lands -- let's just call it TPL. Are you aware that
8 TPL's estimate of the economic impact of the whole
9 park system on the Seattle economy is \$30 million?

10 A Well, I believe that was in 2011.

11 Q Correct. Okay. So you're aware of that?

12 A Well, that's their estimate in 2011.

13 Q Okay. And HR&A estimates \$191 million impact
14 due to increased tourism solely from the Waterfront
15 LID components; is that correct?

16 A That's their estimate. That's their estimate
17 comparing it to other -- other projects that have
18 similar amenities, the Seattle Waterfront Project.

19 Q And did you -- did that strike you as a little
20 odd that HR&A is estimating impact from increased
21 tourism due only to the LID components that is six
22 times greater than impact on tourism from all of the
23 existing parks in Seattle?

24 A Well, again, I mean, I think you're comparing
25 a 2019 study where the relevance and the background of

1 each study may vary a bit, and you're looking at how
2 vastly the market has changed over that period of
3 time. We were more concerned looking at the HR&A
4 study the amount of tourism it would create just from
5 a demand standpoint recognizing that it is an
6 estimate, and it is subject to variations.

7 Like something we do, it's an estimate. It's
8 not an exact science. So we recognize that as far as
9 our thought process goes when we're comparing it to
10 the Seattle market.

11 Q Sure. And I understand that this is a 2011
12 study. But did you try to make any adjustments to
13 HR&A's estimate of 191 million, which is based largely
14 on data from cities like New York, to take into
15 account this data which is showing in 2011 a
16 30 million net income from tourists spending from all
17 existing parks in Seattle specifically?

18 A Well, as I said, we recognized it's an
19 estimate. It included elements of -- it included
20 project elements that aren't part of the LID as well.
21 So we recognize -- we recognize that and recognize it
22 is an estimate. And it's drawing from other -- other
23 different larger markets and some smaller markets.

24 So in the context of that, we didn't do a
25 specific adjustment, but we recognized that -- the

1 relevance that it's subject to a variance.

2 Q Okay. Let's look at page 89. So this is
3 page 9 of the TPL study. Are you aware that -- so it
4 says: We determined that approximately 3.44 percent
5 of King County tourists visit Seattle primarily
6 because of the city parks. And this is a broad group
7 that includes suburban day visitors, the Filipino
8 Festival, overnight traveler, to the Hemp Fest, family
9 traveling. It seems like even a bike on Burke-Gilman
10 Trail.

11 Are you aware that that 55 percent figure --
12 so you recall that in the HR&A study they -- they
13 projected 55 percent of visitors would visit primarily
14 because of the Waterfront LID? The 55 percent is
15 vastly different from this 3.44 percent. And do you
16 have any idea for the reason for this difference?

17 A No. Other than they're two separate studies,
18 one done in 2019 and the other done in 2011 under
19 different market conditions. So I don't know other
20 than that why there's that big of difference.

21 Q And how do these two studies inform your
22 analysis given that they're coming up with pretty
23 different conclusions and given that they're based on
24 different types of data, one of them being primarily
25 local and one of them being primarily national?

1 A Well, again, the 2011 study we're looking at
2 here was used primarily for the condominium market. I
3 think they reflect about a 4 percent increase in
4 residential property values that are within 500 feet
5 of the -- of the park amenities, and then they go out
6 2,000 feet.

7 It was somewhat similar to what Dr. Crompton
8 was saying, and that's the reason why we included his
9 study and not this in the report and used this as
10 background. And his was much more detailed and more
11 widely accepted in the market than this local study.

12 Q Okay. Why don't we turn to Crompton's -- to
13 discuss Crompton's study then. So you've testified
14 that you relied on his research for background. Did
15 you --

16 A Yeah, just as we did this report.

17 Q Sure. And did you use the information from
18 Crompton's report to inform your special benefit
19 increases in the spreadsheets?

20 A Yeah. Again, it was used -- it was used as a
21 tool to reflect how the market was reacting to park
22 amenities and park-like amenities that were prevalent
23 throughout the LID improvements. So it was a good
24 source of information in that respect.

25 Q And you've also mentioned that you used this

1 study to inform your residential condo analysis?

2 A Yeah. It was used as background information
3 to see the range of impact that Dr. Crompton was
4 seeing in the market. So it wasn't the only source we
5 used, but it -- again, we try to bracket our benefit
6 estimates based on -- on studies that are out there to
7 review and our knowledge of the market and the data
8 we've collected in the local market which is a
9 significant amount of data we've collected for the
10 local market relative to condos, apartments, retail,
11 office buildings, you know, the unique aspects of the
12 market and the historic properties. So we have a
13 large abundance of research for the Seattle market as
14 well.

15 Q And just focusing a little bit more on
16 Crompton's research, your declaration explains that it
17 would have been inappropriate to rely solely on his
18 study because the LID improvements contain a mix of
19 parks and streetscape amenities and include both
20 commercial and residential properties; is that right?

21 A Yes.

22 Q I'm going to pull up Exhibit 102, which is
23 your deposition, and this will be really quick. I'm
24 going to navigate to page 179, and it says -- we're
25 talking about parklike improvements, and so you're

1 saying Pike/Pine, they're more like streetscape
2 amenities without Pier 58.

3 And I ask: Without Pier 58, are the
4 Waterfront LID improvements more accurately
5 characterized as street beautification?

6 And the answer is: Well, I think, Pier 58,
7 the Promenade, the Overlook Walk would combine into
8 parklike amenities than would Pioneer Square and
9 Pike/Pine corridor.

10 And I said: It's those three together?

11 Yes. They would be the main parklike
12 components that we considered.

13 So then I asked: So when you're drawing
14 boundaries around the park, those are the core park
15 elements that you're thinking of; correct?

16 A Well, yeah, Ms. Lin, we're looking at the
17 project as one entity, so parklike amenities are part
18 of it. Streetscapes are part of it. The Overlook
19 Walk is such a unique amenity. It's hard to put it
20 into, you know, a certain category.

21 So I think I was just trying to describe the
22 general differences in the market, and that's why we
23 looked at a number of different studies that had
24 various elements of the market attributes.

25 Q Do you agree with your testimony that the more

1 parklike elements of this LID are Overlook Walk,
2 Promenade, and Pier 58?

3 A Yeah. I think they're more parklike than,
4 say, the streetscapes on the Pike/Pine corridor or
5 Pioneer Square.

6 Q And are you aware of the difference between
7 parks, parkways, and greenways?

8 A Well, I think it just gets into semantics when
9 you're looking at this. That's why we use it for
10 background information. We don't -- we don't get into
11 the minutia of looking at it as one giant park or --
12 you know, it has unique market elements that are
13 difficult to quantify like in a word.

14 But that's why we looked at other different
15 studies in different areas that have different
16 amenities. Like we looked at Dr. Crompton's studies
17 that show the relationship primarily to the
18 residential market on how parks are impacting market
19 value. The Land Conservancy 2011 study shows -- shows
20 a similar reaction. So, you know, again, it's not --
21 it's looking at a broad spectrum of elements and
22 not -- not trying to just say this is the giant park
23 or a parkway or --

24 Q Sure. So I understand that the semantics can
25 be different. But are you aware that research treats

1 parks, parkways, and greenways different for the
2 purposes of valuing property value increases that are
3 proximate to these three different types of amenities?

4 A Well, the studies -- the studies -- that's why
5 the studies are used as background information because
6 they have elements of similarity to the subject
7 project.

8 Q And you testified that you are looking at all
9 three components together as a whole when you're
10 analyzing special benefits?

11 A Well, for instance, if you look at the
12 operations and management agreement that was reached,
13 I think they even used the phrase that all of the
14 amenities -- all of the six components are treated as
15 a park or park amenities, which I think differs
16 from -- from the market.

17 But, you know, again, that's why we're trying
18 to utilize different studies that have similarities to
19 the subject to use for background information to draw
20 comparison to our analysis and our conclusions of
21 value.

22 Q Okay. So I'll just ask my question again
23 because I'm not sure that I got a response. All of
24 the components are valued together as one for purposes
25 of your special benefit analysis. And so my question

1 to you is: Do you disagree with Dr. Crompton's
2 testimony that looking at these all together as one,
3 as you did, this is more like a parkway?

4 A Well, we used his information for background
5 information. So I don't -- how he wants to paraphrase
6 something or look at something, he didn't -- he didn't
7 do the study. I did. So --

8 Q I'm asking do you disagree with his conclusion
9 that --

10 A I don't --

11 Q -- the LID components together are --

12 A I don't -- I don't -- I don't agree -- I don't
13 agree or disagree. I just say we used his study for
14 background information as best we could to see the
15 relative differences as one component of the LID
16 improvements.

17 Q When calculating distances using the maps that
18 your GIS experts provided to you, did you measure as
19 the crow flies or via travel routes?

20 A We looked at it -- we looked at it both ways
21 on a block basis, just on a distance basis. A lot of
22 the studies a lot of difference in block length and
23 things of that nature, so the impact of the aerial.
24 So it was looked at on a physical basis, as I
25 mentioned, looking at Denny Way, I-5, Fourth Avenue,

1 the Safeco Field area, the Waterfront area. So there
2 were a number of different elements that went into
3 that.

4 Q So when you say we looked at it both ways, in
5 what situations were you looking at it as the crow
6 flies versus via road distance?

7 A Well, it's not necessarily as the crow flies.
8 Some of the -- when you look at other -- other
9 studies, the blocks, there are difference in length.
10 There are variances that way, so, you know, if you --
11 and due to the unique configuration of the LID, we
12 just used our judgment as we got further and further
13 away to where we felt the special benefit wouldn't be
14 measurable anymore and where it would be more general
15 in nature. And that's where we drew our boundary.

16 Q I understand that blocks can vary in distance
17 and -- but I guess I'm asking: In what situations are
18 you looking at distance via a travel route, like a
19 road route, from one point to another versus in a
20 straight line from one point to another? Because you
21 said you looked at distance in both ways, and I'm just
22 wondering --

23 A Some of the studies dealt more in distance and
24 some dealt more -- where some of the studies were more
25 block oriented. So there was no precise study that

1 had this exact distance that we felt the project
2 elements would -- we would say, aha, this is an exact
3 distance or exact number of blocks from this that says
4 this is where your boundary is.

5 So, again, we used the studies for background
6 information, and then using our own judgment, we do a
7 parcel-by-parcel analysis until we get to a point to
8 where we feel the special benefit stops and the
9 benefit is more general in nature. LID boundaries
10 like this are challenging. They're -- you know,
11 they're based on judgment.

12 If we're doing a utility LID, the boundaries
13 are quite easy because it's typically just where the
14 utility services can -- can -- can serve us, so you
15 have a very easy boundary. When you have a
16 challenging project like this or like a road
17 improvement project is benefiting a large area, you
18 know, the LID boundaries are more challenging to
19 estimate.

20 Q What exact research did you rely on regarding
21 streetscape improvements and their impact on property
22 value?

23 A There were a number of studies done. New York
24 had a number of examples where I think they looked at
25 five or six different areas of the city where they did

1 street softening and sidewalk enhancement and things
2 of that nature.

3 Q Are you talking about the New York DOT study
4 that's cited in your final report?

5 A There -- well, I don't know if it was -- I
6 can't remember if it was cited in the report or if it
7 was just used for background information. And there
8 were other studies that talked about that element, as
9 I recall, that are in the background -- in our
10 background information or on the website.

11 Q Do you recall whether that research indicated
12 that property value increases are greater or less as a
13 result of proximity to streetscape improvements as
14 opposed to parks?

15 A Well, as I recall, a lot of the -- I think it
16 was the New York study. Again, it's been a number of
17 months since I've looked at that study. I think they
18 related it more to, you know, retail sales activities
19 and things of that nature to show that there were
20 positive attributes to it.

21 There could have been other market value
22 examples. I just -- it's been a long time since I've
23 read through all that, but I know there were a number
24 of studies like that that we looked at.

25 Q Did your analysis differ depending on whether

1 a project component was a streetscape or a park
2 improvement? For example, is a block from the
3 Promenade different from a block from the Pike/Pine
4 improvements?

5 A Again, it's looking at the project as one
6 entity, and if a project -- if a property was
7 situated, say, closer to the Overlook Walk and the
8 Promenade, it would most likely have a higher benefit
9 than -- well, it would have a higher benefit than one
10 at Eighth and Blanchard or, you know, Seventh and
11 Lenora that is further removed. So it depended on the
12 specific location of the property and how the market
13 would react before and after the elements of the LID
14 on the property's property value.

15 Q What research specifically did you rely on in
16 order to extend the LID boundary -- actually, I'm not
17 even going to ask that.

18 You testified that you took into account the
19 potential loss of the view amenity in the after
20 condition, for example, due to a large influx of trees
21 at the ground level for condos. But in your testimony
22 on direct you noted that there were also a fair amount
23 of trees already in the before condition. Do you
24 recall that testimony?

25 A Yes. I mean, it would just depend on where

1 you are. If you go back to your visual aids that you
2 used in the -- when we first started, there's still
3 trees in the before, and there are more trees in the
4 after if you're along the Promenade area. It would
5 just depend on where you're at.

6 Q And did you make any calculation or judgment
7 that the addition of trees in the after was a larger
8 disamenity than in the before condition, or did you
9 consider them to be roughly equivalent?

10 A As best we could, we recognize -- there's
11 some -- there's some esthetic enhancement. There's
12 probably a little -- depending on where you're at,
13 there's probably a little, you know, more -- more
14 blockage, but it would just be depending on the
15 property and where it was located.

16 There's a variety of other elements we're
17 looking at, so it wasn't necessarily just isolated.
18 When we're reconciling the value of a property, you
19 kind of go through the considerations that you looked
20 at from the before and the after. So issues like
21 that, issues like parking, the before parking and then
22 the after, if there's parking loss, you know, that's
23 just -- again, that's looked at on a parcel-by-parcel
24 basis.

25 And we're reconciling our conclusions like

1 we -- we've shown in other worksheets that we've
2 looked at. It's part of our thought process. How is
3 the market going to react to this? We are losing some
4 parking. You're gaining a lot of pedestrian
5 connect -- corridor activities, increase in tourism.
6 Depending on where you're at, you might have good
7 proximity to the Overlook Walk and the really unique
8 amenities that's going to create in the market.

9 So those are the types of considerations we
10 just used on a parcel-by-parcel basis, and, typically,
11 the things such as trees, parking, and those types of
12 elements were just considered in our reconciliation
13 process.

14 Q And so if you're doing -- if you are assessing
15 or if you're analyzing parking loss, for example, on a
16 parcel-by-parcel basis, where is that analysis in your
17 spreadsheets?

18 A Yeah, we didn't do a separate parking
19 analysis. As I said --

20 Q But you analyzed it on a parcel-by-parcel
21 basis is what you said?

22 A Correct, correct.

23 Q So I'd like to know where can I see the
24 parcel-by-parcel analysis of parking?

25 A Well, as I said, we didn't do a separate

1 parking study. We analyzed the impact on parking if
2 it was relevant or the impact on parking loss was
3 relevant.

4 Q And where can I see that analysis?

5 A Well, it would just be within the
6 reconciliation of our conclusions in the before and
7 after on a particular worksheet.

8 Q Where can I see that?

9 A We didn't do a particular parking study to say
10 that, yeah, there's \$1,000 lost to parking or
11 whatever. We didn't break parking out as a separate
12 element. In the before some of those properties would
13 have had parking. In the after they didn't, but they
14 had a beautiful Promenade. They had walkways. They
15 had greater trees and desirability in the market.

16 And so just reconciling the before and the
17 after, we just made decisions. Yeah, there's some
18 parking loss. That's a detriment. Well, they have an
19 increase in tourism. They have had an increase in
20 esthetic appeal. How does that interrelate? And so
21 those kinds of thought processes just go into our
22 judgment on our parcel-by-parcel basis.

23 Q Sure. But there's no way for me or anyone
24 else to know what that parking analysis looked like on
25 a parcel-by-parcel basis?

1 A Well, you wouldn't because we didn't do it.

2 We didn't do a separate parking study, so --

3 Q But you did -- I'm saying you have analyzed it
4 on a parcel-by-parcel basis, but there's no way for me
5 to see that?

6 A Well, you could see it in the context of the
7 amount of benefit we came up with. I think if -- you
8 know, if there was no parking loss, a lot of the
9 Pier 55, 56, Ivar's area, they probably would have had
10 a higher benefit amount, but we didn't specifically
11 itemize that difference out. It was done more through
12 our reconciliation process.

13 Q So Dr. Crompton also talks about the
14 diminishing value of additional units of benefit from
15 a park if you've already got a Waterfront in
16 existence. Did you review that portion of his study?

17 A Well, he went through some discussions of the
18 viaduct and diminishing returns or whatever. I read
19 through it. I disagree that there wouldn't be any
20 benefit or it would overshadow any benefit. I think
21 one of the things we've gone at great length to try to
22 be real clear about and honest about and reflect in
23 the market is in the before condition you do have a
24 viable Waterfront.

25 And in the before condition, we're recognizing

1 that the viaduct has been removed. And so to a large
2 degree, that's why you don't see these big, huge, 10,
3 15 percent increases in value because they just
4 wouldn't be relevant just due to the difference in
5 what's being done between the before and the after.

6 So we tried to be very, very careful and
7 really try to relate that in our report to the reader
8 to let them know that, yes, there is a viable
9 Waterfront before, but you really have a unique
10 compelling esthetic Waterfront in the after. And the
11 market will react to that.

12 Q Let's switch topics a little bit and talk
13 about the maintenance ordinance, which you've
14 testified to a couple times. You testified that you
15 considered this ordinance when determining special
16 benefits from properties in the LID.

17 And so I'm wondering what increase in value
18 was attributable to this relative improvement in
19 sanitation and control of crime and homelessness?

20 A I don't -- I don't think we said that I
21 considered it. I considered it I think in the context
22 of -- that it showed approval for the -- for the LID
23 and the formation of the LID. And it showed the
24 market acceptance of what we did in the formation
25 study was accepted in the market.

1 And you had a large number of property owners
2 that had their preliminary assessment, and they were
3 making an investment decision based on our figures
4 whether or not they thought the Waterfront would
5 increase their property and their value to that
6 extent. And a large percentage of them agreed that it
7 would, and then they reached an agreement with the
8 City on the operation and maintenance of the
9 Waterfront.

10 Q So you did rely on this ordinance when
11 determining whether or not the park improvements would
12 provide positive value increase to nearby properties?

13 A That reflected the market's perception that
14 the project formation -- the before and after values
15 were relevant that they were being accepted in the
16 market. So it was just something we looked at that a
17 number of property owners agreed, but one of the
18 elements that was there when we were doing a formation
19 was the -- this issue of operation and maintenance of
20 the park. So that led to your next question, so I'm
21 sorry.

22 Q Sure. I'll just read out loud your
23 paragraph 24 of your declaration says: Park
24 improvements with significant investment in operations
25 and maintenance provide a positive value increase to

1 nearby property.

2 And then you have a sentence about Tom McCall
3 Waterfront Park, and you end that paragraph with: In
4 my professional opinion, it was reasonable to rely on
5 the City's assurances that it would appropriately fund
6 and maintain the Waterfront LID improvements.

7 So my question is: Did that -- did this
8 maintenance ordinance help inform your conclusion that
9 the park improvements would provide a positive value
10 increase to the nearby property?

11 A Yes. I think any well-informed, knowledgeable
12 purchaser of property, if they were looking at the
13 before condition when the elements would be more of a
14 transportation corridor versus how it is spelled out
15 in the agreement in the after where there would be a
16 lot of management and upkeep at the park and more
17 authority to control various elements of security and
18 things of that nature in the park that I think a
19 typical, well-informed buyer or seller would consider
20 that a positive amenity.

21 Q So did this go into -- did this help inform
22 your special benefit increases in the spreadsheets?

23 A It was a consideration that we considered,
24 again, when we're looking at the difference between
25 the before and after values.

1 HEARING EXAMINER VANCIL: And let's
2 stop there and take a break. We'll take a short break
3 until 3:10. Come back in 10 minutes at 3:10. Thank
4 you.

5 (A break was taken from 3:00 p.m. to
6 3:10 p.m.)

7 HEARING EXAMINER VANCIL: We return to
8 the record. I just want to get us caught up on
9 exhibits. I, in my notes, have you down for 120, 121,
10 '22, '23, and '24. Were there other exhibits that we
11 were going to admit at this time?

12 MS. LIN: I believe that is it. Yes,
13 thank you.

14 HEARING EXAMINER VANCIL: Any objection
15 to Exhibits 120, '21, '22, '23, or '24?

16 MR. FILIPINI: No.

17 HEARING EXAMINER VANCIL: Exhibits 122
18 to -- I'm sorry. 120 to 124 are admitted.

19 (Exhibit 120, Exhibit 121, Exhibit 122,
20 Exhibit 123, and Exhibit 124 were marked.)

21 HEARING EXAMINER VANCIL: I also want
22 to check with you all on timing. I trimmed a little
23 bit off our last schedule. I think we're proceeding
24 well within what you've all laid out for yourselves
25 and what your needs are, but I want to try to meet

1 that with making sure that you do have the time you
2 need and check to see if there is any problem for
3 parties to participate through 5:15 today.

4 We can add another 15 minutes at the end of
5 our regular day. I've spoken with my legal assistant.
6 We can stay a bit later. We can also convene earlier
7 tomorrow at 8:30 a.m. Sorry. Thursday. I keep
8 thinking we're in hearing all week.

9 So, first, for this evening, is there any
10 objection or problem for a party if we stay convened
11 and continue through 5:15 p.m.?

12 All right. Hearing none, we will continue
13 from this break through 5:15 to pick up some extra
14 time. And is there any objection or complication for
15 a party if we start at 8:30 a.m. tomorrow -- sorry.
16 Thursday instead of 9:00 a.m. as scheduled?

17 All right. Thank you. Then we will start our
18 hearing at 8:30 a.m. on Thursday the 25th. Thank you.

19 Ms. Lin, please proceed.

20 BY MS. LIN:

21 Q So I just have a couple more questions about
22 this maintenance ordinance. So you did not adjust the
23 special benefit amounts to account for the risks
24 associated with disamenities such as crime,
25 homelessness and unsanitary conditions; is that right?

1 A Well, again, I mean, in the before condition,
2 those elements are prevalent. In the after condition,
3 there's a maintenance agreement which helps in that
4 element. So that in reconciling our values, that's an
5 amenity that we would have considered in the after
6 condition that would be prevalent in the marketplace.

7 Q What exactly does this maintenance ordinance
8 add in terms of the City's obligations to maintain
9 safety and crime and homelessness and unsanitary
10 conditions? What does it add on top of the City's
11 obligations that already exist in the before
12 condition?

13 A Well, as I've seen in other market areas such
14 as Portland that has a good management program, it's
15 just more of a positive market perception in the real
16 estate market and the investment of real estate.

17 Q And did your appraisal quantify the risk that
18 the parks will not, in fact, be maintained as
19 promised?

20 A Well, we based them based on the after
21 condition when we were reconciling based on the
22 operations and maintenance agreement.

23 Q Let's switch topics a little bit. So the
24 final study is intended to comply with mass appraisal
25 standards; is that right?

1 A That's correct.

2 Q And the purpose of compliance with USPAP is to
3 ensure credible results and that the users of the
4 appraisal report -- and so that users of the appraisal
5 report have confidence in the results presented; is
6 that right?

7 A Well, yes, I mean, it's all done under state
8 statutes that a parcel-by-parcel analysis is done so
9 that you can create a spreadsheet that shows what your
10 valuation conclusions are before and after and what
11 that value difference is reflecting the special
12 benefit.

13 Q And you testified that USPAP is published by
14 the Appraisal Institute. In fact, it's published by
15 the Appraisal Foundation; is that right?

16 A Yeah, yes.

17 Q And you previously -- you talked about these
18 individual worksheets and the parcel -- or the
19 individual worksheets, let's talk about those. You
20 previously claimed that those were proprietary and
21 confidential; is that right?

22 A Well, when we first started, there was some
23 concern there, and then I decided just it was fine to
24 let it be in the record.

25 Q And so they were not part of your final study;

1 is that right?

2 A The worksheets?

3 Q Correct.

4 A Yes. They're part of -- they're part of our
5 backup data that summarizes our value conclusions.

6 Q But they're not actually part of the physical
7 document that is called the final study and that was
8 provided to property owners initially?

9 A No. We don't -- we just summarize our
10 conclusions within the format of a spreadsheet.

11 Q I'm sorry. I'm going to ask that one more
12 time. So the spreadsheets are not part of your final
13 study; correct?

14 A They're not included in the report, no.

15 Q Okay. And how would a reader of your final
16 report have known that these spreadsheets were
17 prepared?

18 A Well, I think we mention in the report that
19 individual spreadsheets are prepared on each property,
20 and the supporting documentation is retained in our
21 files.

22 Q Do you know where in your final report that
23 is?

24 A I don't, but I know -- I know we talk about
25 the retention of all of our background supporting

1 information in our files. That would be in the
2 transmittal letter, I believe.

3 Q Your transmittal letter does talk about the
4 two lengthy spreadsheets that are included as part of
5 your final study?

6 A But it also should talk about the supporting
7 documentation as retained in our files.

8 Q Okay. And so this reference to supporting
9 documentation is how a reader would know that you had
10 also prepared individual worksheets?

11 A Yes. And, again, I thought we said that in
12 the context of the report that -- we may not have. I
13 can't --

14 Q I don't think you did, but we can figure that
15 out later. Are you aware that on April 14, 2020, the
16 Hearing Examiner questioned the City's attorney
17 regarding your claim of confidentiality?

18 A I don't recall that. Again, we ended up
19 putting the worksheets into the record.

20 Q And that was the following day on April 15,
21 the City withdrew its claim of confidentiality; is
22 that right?

23 A I don't know the exact dates, but we --

24 Q Did you ever -- did you ever have a
25 conversation with the City's attorney about

1 withdrawing your claim of confidential?

2 A Yes.

3 MR. FILIPINI: Yeah. I'll object to
4 the extent that we're getting into attorney-client
5 privilege issues, but I suppose I'll see what the
6 question is.

7 Q Okay. I'll actually back up a little bit.
8 I'm going to read from the April 14 hearing
9 transcript, and this is Hearing Examiner Vancil
10 speaking.

11 He says: But as objectors point out, it's the
12 appraiser's process is what's in question. And so if
13 he's obscuring that process without any clear reason,
14 that in itself can speak to the validity of the
15 process.

16 Do you agree that it is your process that is
17 at issue here?

18 A Again, I mean, we put the worksheets into the
19 record, so any -- any relevance to that is gone.
20 They're in the record.

21 Q I understand that. My question is: Do you
22 agree that it is your process that is at issue here?

23 A Well, the process of the worksheets not being
24 put into the record was, from my understanding, the
25 question, and then they were put into the record.

1 Q Correct. I'm actually asking more about your
2 mass appraisal process. Do you agree that it is your
3 mass appraisal process that produced the final report
4 that is at issue here?

5 A I don't know. I can't read the Hearing
6 Examiner's mind. My understanding of the issue is
7 whether or not to put the worksheets into the record,
8 and we decided to do that.

9 Q Oh, so we're leaving the worksheets aside
10 right now and talking about something different. So
11 apologies if the topic change was too abrupt for you.
12 I'm now just talking about your mass appraisal
13 methods, and I would like to know whether you agree
14 that it is your mass appraisal methods that are being
15 discussed here in this hearing. I think the
16 obvious -- it seems like that's a straightforward
17 question.

18 A The report that I prepared is a mass appraisal
19 report, so that would be -- if you're talking about my
20 report, that would be what we're talking about.

21 Q And it's not the process of the objectors'
22 experts that is at issue; is that right? Because as
23 you point out, objectors' appraisal experts are not
24 the ones performing the special benefit study here; is
25 that right?

1 A I'm the one that performed the special benefit
2 study, correct.

3 Q Okay. Do you still maintain your methodology
4 is, in fact, proprietary?

5 A I think that we have some unique analysis
6 aspects that back when we first got into this that we
7 were a little concerned that would be sent out on to
8 the internet and every -- they would be exposed to a
9 lot broader spectrum of users than just those that
10 specifically should have it because they're providing
11 evidence, rebutting what we're -- or trying to refute
12 what we said. So we had some concerns in that regard,
13 and then we've just let them go and decided to put
14 them into the record.

15 Q And has this method -- has your methodology
16 ever been subject to peer review?

17 A Certainly.

18 Q Let's turn to Randall Scott's report. Are you
19 familiar with Randall Scott's report and testimony
20 regarding USPAP Standards 5 and 6?

21 A Yes.

22 Q And are you familiar with who Randall Scott
23 is?

24 A No, other than what I've seen of his appraisal
25 review.

1 Q Let's pull up Exhibit C-24, which is
2 Standard 5. And if you would like, do you want me
3 just to share screen again?

4 A Please.

5 Q So this is Standard 5. Correct that
6 Standard 5 requires mass appraisals to develop a model
7 structure that conceptualizes the relationship between
8 characteristics that affect value and to calibrate
9 that model to specify how those individual
10 characteristics affect value?

11 And we'll walk through each of those. I'm
12 more just trying to set a stage for what Standard 5
13 is. So why don't we just actually walk through these.
14 Standard 5 includes a list of seven items that a mass
15 appraisal should include.

16 So if you look at Item 4, Item 4 says:
17 Developing a model structure that reflects the
18 relationship among the characteristics affecting value
19 in the market area.

20 So you've testified that your mass appraisal
21 method is a parcel-by-parcel approach rather than a
22 statistical model; is that right?

23 A That's just a fact that it is a
24 parcel-by-parcel analysis.

25 Q And wouldn't a parcel-by-parcel analysis

1 simply be amassing thousands of single property
2 appraisals as opposed to being a mass appraisal?

3 A Well, it's more of the context that it's done
4 in. We're not preparing individual appraisals. We're
5 doing an abbreviated analysis to comply not only with
6 the USPAP, but also with state statutes.

7 Q But if you're doing a parcel-by-parcel
8 approach -- and I understand you're in the context of
9 a mass appraisal, meaning you're doing a lot of these.
10 But if you're doing a parcel-by-parcel approach,
11 wouldn't that approach require you to be compliant
12 with Standards 1 and 2?

13 A We are. We're identifying properties to be
14 appraised. We're defining the market area. I mean,
15 read the report. Of consistent behavior that applies
16 to properties. We're identifying characteristics
17 apply. Read the report. It's in the addenda or in
18 the back of the report, our market data study.

19 It affected creation of value in the market
20 area. We're developing a model structure that
21 reflects relationship among characteristics affecting
22 value in the market area. We're calibrating. We're
23 going through and doing intense review and internal
24 review of our model structure, which is the
25 parcel-by-parcel basis, to determine the contribution

1 of the individual characteristics affecting value.

2 We're applying --

3 Q So let's just go back to the question. I want
4 to make sure I understand your answer. So you're
5 saying that these appraisals are governed by
6 Standards 1 and 2 which govern direct appraisals and
7 that you are in compliance with Standards 1 and 2?

8 A Definitely, yeah. There's a broad range to do
9 a mass appraisal. You can do some statistical
10 analysis, regression analysis, or what we use totally
11 acceptable by doing a parcel-by-parcel analysis.
12 We're identifying properties to be appraised. I don't
13 see how you could say we aren't.

14 We're defining the market area consistent with
15 behavior that applies to properties. We're doing, you
16 know, income approach, cost approach, or direct sales
17 approach where it's applicable. So we're certainly
18 complying with one and two.

19 Q And so for each residential condo unit, can
20 you point to where I can see your compliance
21 Standards 1 and 2?

22 A Well, there again, we're identifying the
23 property. If you look at the spreadsheet, we're
24 identifying the properties to be appraised. They're
25 all in the Excel spreadsheet. We're defining the

1 market area of consistent behavior that applies to
2 properties. So, again, just going through the
3 spreadsheet, that information is there. All of the
4 backup information that we have relevant to sales
5 is -- is within the backup data that we have for the
6 project. So we have sufficient information where, if
7 we're required, we can prepare individual appraisals
8 of each condominium property if we were required to do
9 so.

10 Q You've testified previously that a direct
11 appraisal would have not -- would not have been
12 economically feasible for this mass appraisal. And
13 you're testifying now that, in fact, your
14 parcel-by-parcel approach did comply with Standards 1
15 and 2 which govern direct appraisals. How is that
16 consistent?

17 A Well, with condominiums, we just didn't
18 prepare worksheets. We just summarized them just due
19 to the mass amount of 5,000 and some condominiums, and
20 the commonality of a lot of those properties, we just
21 didn't prepare individual worksheets for those
22 properties like we did with the more complex
23 commercial properties. But we have everything we need
24 in our backup data to comply with USPAP and to meet
25 these requirements.

1 Q And so is, in fact, your approach, an amass of
2 direct appraisals that -- sorry. Let me back up.

3 Is, in fact, your parcel-by-parcel approach an
4 amass of direct appraisals?

5 A Say that again.

6 Q So is your parcel-by-parcel approach really
7 just a lot of direct appraisals?

8 A Well, it's a mass appraisal, and it utilizes
9 limited -- limited techniques, such as Gordon uses in
10 doing his limited restricted report. I mean, we're
11 just summarizing our conclusion in a large group of
12 properties, and we're doing it a couple of different
13 ways -- one by preparing the worksheets on the more
14 complex properties, one reporting our findings within
15 properties that have more commonality, and we're
16 basing it on market-based acceptable studies such as
17 sales comparison approach and the income approach or
18 the cost approach if it's more of a special purpose
19 property.

20 Q So you believe that every single property in
21 the LID you've complied with Standards 1 and 2?

22 A Yes, yes.

23 MR. FILIPINI: And if I can just object
24 and ask: Are we talking about Standards 1 and 2 of
25 USPAP or this sub 1 and 2 on -- up at the top of this

1 page?

2 MS. LIN: We're talking about
3 Standards 1 and 2 that govern direct appraisals.

4 MR. FILIPINI: Okay. And are those in
5 exhibit -- in front of the witness?

6 MS. LIN: They're not an exhibit, but I
7 can submit them if you'd like. I think that
8 Mr. Macaulay is likely very familiar with Standards 1
9 and 2 as they are the principle governing appraisals
10 standards for direct appraisals.

11 MR. FILIPINI: But I notice in
12 answering your questions he's referring to and reading
13 into the record one and two here underneath
14 Standard 5. So I just want to make sure he's
15 understanding the question.

16 THE WITNESS: Yes. I thought you were
17 talking about standards with -- you know, we're
18 talking about mass appraisal. I thought you were
19 talking about Standards 1 and 2 that are applicable to
20 Standard 5. That's what we were talking about. Now
21 you're saying you're talking about something else?

22 BY MS. LIN:

23 Q Okay. So let's back up. I am talking about
24 something else. I am sorry. Let's back up.

25 I asked you about the parcel-parcel approach,

1 and I asked whether or not that is an amass of
2 thousands of single property appraisals. And if so,
3 whether or not these appraisals would be governed by
4 USPAP Standards 1 and 2 that govern direct appraisals
5 and whether or not you are complying with Standards 1
6 and 2 which govern direct appraisals?

7 A We're complying with the Standards 5 and 6
8 governing mass appraisal, and in the context of that,
9 we have to have sufficient information available
10 within the context of that study to prepare individual
11 appraisals of the property, like a limited appraisal
12 like Mr. Gordon did.

13 So, yes, we would -- then we would have to
14 comply with the other USPAP Standards 1 and 2 you're
15 referring to once we wrote those reports, but our
16 whole compliance for mass appraisal is meeting
17 Standards 5 and 6 which we've done.

18 Q And so in your parcel-by-parcel approach, are
19 you required also to comply with USPAP Standards 1 and
20 2 governing direct appraisals?

21 A Well, we have to have sufficient information
22 in our file that if we're -- that enables us to
23 prepare individual reports that would comply with
24 those. We have to have that -- we have to have that
25 level of information in our files that would allow us

1 to prepare individual reports and we do.

2 So if we were to prepare an individual report,
3 then we would be dealing with USPAP's other aspects,
4 but we're dealing with USPAP Standards 5 and 6 and
5 dealing with mass appraisal. And that is a
6 requirement of this or how we've always looked at it
7 that we have to have sufficient information in our
8 files to prepare individual appraisal reports. So
9 it's a -- it's a -- it's a significant amount of data
10 and backup and supply and demand and all of the
11 factors that go into complying with Standards --
12 Standards 5 and 6.

13 HEARING EXAMINER VANCIL: Ms. Lin, I
14 don't know if you plan on coming back to Standard 5,
15 but if you're referring to an entirely different
16 standard, it would be helpful if you took that off the
17 screen as it is confusing to know whether you're
18 talking about Subsections 1 and 2 of Standard 5 or
19 Standards 1 and 2 as independent USPAP standards.

20 MS. LIN: Okay.

21 HEARING EXAMINER VANCIL: That may
22 be -- and I leave it to you whether you want to
23 introduce USPAP 1 and 2 or not. I would agree that
24 the witness seems familiar with them. But for
25 conversation's sake, if you don't have us all looking

1 at one standard if you're not referring to it, that
2 might help.

3 MS. LIN: Sure.

4 BY MS. LIN:

5 Q So is it your testimony that for your -- for
6 your parcel-by-parcel approach, which was your
7 approach for your mass appraisal, meaning instead of
8 doing a statistical method you did a parcel analysis
9 for each parcel within the LID, that these are
10 governed by Standards 1 and 2 and that you are in
11 compliance with Standards 1 and 2? And those are the
12 standards governing direct appraisals?

13 A We're in compliance with mass appraisal
14 requirements, which are Standards 5 and 6 which govern
15 mass appraisal, and we have to have sufficient
16 information in our files that if we're asked we can
17 prepare individual appraisal reports that would then
18 satisfy requirements -- the other requirements one and
19 two that you're talking about. Because we're not --
20 we're not preparing a complete or even limited
21 appraisal assignment appraisal. We're doing -- we're
22 complying with mass appraisal, so there's a
23 distinction there.

24 Q Okay.

25 A Do you understand my answer?

1 Q Sure. So you are in compliance with USPAP
2 Standard 5 and 6, and one of those -- like you said,
3 one of the criteria is developing a model structure to
4 reflect the relationship between the characteristics
5 affecting value. So can you explain what exactly is
6 driving the percentage increases in your hypothetical
7 before and after scenarios in the spreadsheets and
8 otherwise with the condos?

9 A Well, again, I mean, the same -- the same
10 logic applies as it does to the commercial property.
11 We're bracketing the entity that comprises the condo
12 project building and making adjustments based on that,
13 and we're looking at the values within those condos
14 and just saying, well, they're going to relatively --
15 based on the condo's location and the proximity in the
16 market before and after the improvements, it's
17 reasonable that they would experience -- when we go
18 through and do the before and after a generally
19 similar or roughly proportioned difference in value.
20 And that's where that percentage comes from. It's the
21 difference between the before and after value.

22 Q And so Randy Scott explained that a model
23 might, for example, say something like land plus
24 building equals value. Do you agree with something
25 like that? That might be an example of a model?

1 A USPAP has a broad spectrum of ways you can do
2 mass appraisals. You can do a statistical analysis.
3 You could set up formulas. I don't know. I don't
4 think he has any experience in doing special benefit
5 studies or complying with state statutes, which we
6 have to as well as complying with USPAP.

7 Q Sure.

8 A So it's a different element than maybe what
9 he's thinking. I don't know.

10 Q Sure. But you've -- you agree you've got to
11 comply with USPAP Standard 5 in addition to case law
12 and statutes; right?

13 A We do.

14 Q Okay. So going back to Criteria 4 and
15 regarding this model structure, basically what
16 Criteria 4 is asking you to do is identify factors
17 that are driving property value increases in your
18 analysis.

19 A And that's exactly --

20 Q (Inaudible) like tourism or proximity to a
21 park. And so I'm asking you: Can you just name the
22 factors that are driving the property value increases
23 and where I would see that in your report?

24 A Well, just read the report. I mean, we talk
25 about benefits created due to the aesthetic change in

1 the area, the proximity to the elements, the increase
2 in market rent, market vacancy changes, capitalization
3 rate changes, and things of that nature.

4 So it's spelled out in the report, and then
5 it's summarized on an Excel spreadsheet. And then
6 it's further exemplified for the commercial properties
7 on individual worksheets.

8 Q Okay. And so -- so the factors would be
9 something like you said, proximity to the park
10 improvements. That's something that might drive
11 property value increase, and Criteria 5 asks you to
12 calibrate that model structure to determine the
13 contribution of these individual characteristics.

14 So, for example, you would -- for each factor
15 that is creating value, so, for example, the
16 proximity, where is your explanation of how much value
17 that factor contributes to the special benefit
18 estimate? So if a factor has increased tourism, where
19 is the explanation of how much value that factor is
20 contributing? If your factor is proximity, where is
21 the explanation of how much value that factor is
22 contributing?

23 A We don't -- we don't break it out like that,
24 and that doesn't mean we're not complying with USPAP.
25 We don't break out the individual components as they

1 vary -- they can vary from parcel to parcel. So we
2 are just looking at the market value of the property
3 based on the definition of market value before and
4 after. And we're doing it for each parcel
5 (inaudible).

6 It's -- it's better than trying to
7 artificially break out how much tourism, how much
8 proximity. The market just doesn't function that way,
9 and so we're not trying to do that. We're trying to
10 reflect the market as it functions, and that totally
11 complies with USPAP. And it totally complies with
12 Standards 5 and 6.

13 I've been doing this 30 years. I've done over
14 120 or something special benefit studies all under
15 this same methodology. They've -- a number of --
16 several of them have gone through the court system,
17 and this has been approved by the court. So I don't
18 know how to answer the question.

19 Q Sure. We'll pull up Exhibit 126, which is
20 Advisory Opinion 32. And I'll go ahead and share
21 screen because that seems to be something people like.

22 So are you familiar with advisory opinions
23 generally?

24 A Yes. That's just what they are. They're an
25 advisory opinion.

1 Q So they're adopted by the Appraisal
2 Foundation, which is the same institute that publishes
3 the USPAP standards, and they explain what the
4 standards mean when specific questions arise; is that
5 right?

6 A Uh-huh.

7 Q Okay.

8 A Yes.

9 Q And so if you scroll down to page 152, there
10 are a few illustrations here with respect to mass
11 appraisal standards, and the first one -- actually,
12 let's go the second one. The second one says: An
13 appraiser has completed -- an appraiser has completed
14 a mass appraisal for ad valorem taxation -- I know
15 that's not what we're doing here -- but using a mass
16 appraisal model. There's special use property for
17 which is has been determined that the mass appraisal
18 model is not appropriate. This property will be
19 appraised as an individual property. Which develop
20 standards apply to the appraisal of the special use
21 property?

22 And then it says in the answer that Standard 1
23 would apply because the subject is an individual
24 property, not a universe of property.

25 So my question to you -- my question to you

1 is: Does that suggest that if you're doing a
2 parcel-by-parcel approach and you're looking at an
3 individual property and not a universe of property
4 that Standard 1 would apply?

5 A Well, in our instance, I think we're complying
6 because we're looking at -- we're looking at a
7 university -- a universe of properties. And we do
8 have some special purpose properties, but they're
9 within what's allowable within the methodologies under
10 Standards 5 and 6.

11 Where if you read that, they allow income
12 approach, the direct sales approach, and the cost
13 approach. And in those instances, we're using the
14 cost approach. So we're complying with Standards 5
15 and 6 in doing that.

16 Q It appears that you should be complying with
17 Standard 1 if you're doing an individual property; is
18 that right?

19 A Well, it's an -- it's an individual property
20 within the context of many properties, so we're --
21 we're complying with Standards 5 and 6 in mass
22 appraisal, and I just don't really agree with this
23 advisory opinion in this context. Because if you read
24 Standards 5 and 6 that it's allowable to use different
25 techniques.

1 So just because it's a special purpose
2 property, I don't see it as being something that would
3 be adverse to being outside the Standards 5 that --
4 Standards 5 and 6 of the mass appraisal.

5 Q You mentioned John Gordon's restricted
6 appraisals, and you said something like, well, you
7 know, when we do individual ones, we could end up
8 doing a summary just like John Gordon's restricted
9 appraisals.

10 Let's look at Illustration Number 3 which
11 says: An assessment appeal is in process, and an
12 appraisal of an individual property is being conducted
13 as part of that appeal, which development standards
14 apply?

15 And it says Standard 1 or Standard 7 would
16 apply because an individual property is being
17 appraised rather than a universe of properties.

18 So for John Gordon, who is appraising an
19 individual property as opposed to a universe of
20 properties, Standard 1 applies. Does this also
21 suggest that any time -- that it's not so much about
22 whether or not you're looking at a special use
23 property. It's more about whether you're looking at
24 an individual property as opposed to a universe of
25 property, and that is what determines what standard

1 applies; is that right?

2 A In my opinion, the special purpose properties,
3 the stadiums and churches, they're part of the
4 universe of properties that we're appraising. So I
5 don't -- I don't think they need to fall outside of
6 the Standards 5 and 6 of the mass appraisal.

7 If I'm doing or asked to do then a limited
8 restricted report on a particular property to rebut,
9 say, John Gordon's reports, then the same standards
10 that John Gordon applied with in doing his limited
11 appraisal assignment I would need to meet those same
12 standards in doing a limited appraisal and report, but
13 I haven't been asked to do that so I haven't done
14 that.

15 Q So I'm not sure you completely answered my
16 question. It's more than -- if you're taking a
17 parcel-by-parcel approach, it means you're looking at
18 each property within the LID separately, and you're
19 not looking at them all together as a universe of
20 properties. So wouldn't that suggest that Standard 1
21 applies?

22 A Well, we're looking at them as a universe of
23 properties in the context of doing a parcel-by-parcel
24 analysis. We've got to maintain proportionality.
25 We've got to remain consistent with how we're valuing

1 one property from the other, so I disagree with that.
2 We're just using a different -- a different technique.
3 We're not using some statistical analysis or
4 regression analysis or something like that.

5 I think the techniques and the methodology and
6 the proportionality relationship that we use and the
7 internal review we use is much, much better and more
8 accurate than doing some sort of statistical analysis
9 or trying to pull apart various elements that you
10 suggested such as proximity and things of that nature.
11 So I think our methodology totally complies with the
12 USPAP requirements 5 and 6 that we're supposed to
13 comply with.

14 Q Illustration 4 says: An appraiser is
15 conducting a mass appraisal for ad valorem taxation --
16 I realize this is in the LID context. A property
17 record card is produced for each property. Is each
18 property record card considered a report under
19 Standard 6?

20 The answer is: No. The property record card
21 is not the mass appraisal report; it is only a portion
22 of the information and analysis supporting the mass
23 appraisal.

24 So does this suggest that your individual
25 property worksheets are not considered the mass

1 appraisal report?

2 A Well, in the context that we're looking at
3 them, they're considered as one -- as one universe of
4 properties that we're doing, and it's in the context
5 of the Local Improvement District that has been
6 formed. And so the Local Improvement District has
7 formed a defined area, and we're not doing ad valorem
8 taxation.

9 So you're comparing something from what an
10 assessor would do to something that I'm doing subject
11 to state statutes and other requirements, that
12 aren't -- and we're not doing an ad valorem taxation.
13 So my worksheets comply with the elements of five and
14 six as they're a universe of reports that are done
15 that show proportionality amongst the various
16 ownerships within this defined LID boundary that's
17 covered by state statutes.

18 Q Is it true that Illustration 4 suggests that
19 whatever model structure you have and whatever
20 calibration you have done should appear in the report
21 itself and not in a property record card?

22 A Again, you're looking at something that's
23 dealing with ad valorem taxation. I'm looking at a
24 local improvement district that's subject to state
25 statutes. And this is an advisory opinion on ad

1 valorem taxation, not an advisory opinion on special
2 benefit studies for local improvement districts.

3 Q So is it your testimony that this -- this
4 concept that your compliance with Standards 5 and 6
5 must appear in the actual mass appraisal report? This
6 concept does not apply in the LID context?

7 A All I'm saying is that the methodology that
8 I'm using, the -- that are shown in the Excel
9 worksheets which summarizes our findings, they're
10 supported by the backup data. They're supported by
11 the worksheets that show proportionality cover a
12 universe of properties within a defined legal --
13 within a defined legal boundary -- legal LID boundary.

14 And there are state statutes and case law that
15 apply to doing appraisals of those properties, and
16 they comply and -- our analysis complies not only with
17 that but with USPAP Standards 5 and 6 for mass
18 appraisal.

19 MS. LIN: Okay. I think that's all I
20 have for right now. My colleague Jerry Lutz, I
21 believe, has called in and has a few questions for
22 you.

23 Jerry, are you on the line?

24 MR. LUTZ: Yes. I had to unmute
25 myself, and now I'll turn my picture on. And only for

1 a second because, Megan, I'm hoping that you can also
2 share that Excel spreadsheet for everyone.

3 MS. LIN: So I've also got to circulate
4 it to the group.

5 MR. LUTZ: That's good. I'm sorry.

6 MS. LIN: Which is it, "Spreadsheet for
7 Jerry" that you would like me to circulate to the City
8 and the Hearing Examiner?

9 MR. LUTZ: Yes, "Spreadsheet for Jerry"
10 in the latest e-mail because it kept getting one typo
11 in it. So it should say 18.54 percent in line 12,
12 Column B. Did you find it?

13 MS. LIN: I'm looking at it. So it
14 should say 18.54 percent? Is that what --

15 MR. LUTZ: Yes, in line 12 only.

16 MS. LIN: Yes. I have it.

17 MR. LUTZ: Okay. Great. That is it.

18 MS. LIN: All right. I will share
19 screen with this spreadsheet and let Jerry take over.

20 MR. LUTZ: Thank you.

21 HEARING EXAMINER VANCIL: Just to
22 clarify, this is an item that is not in the preshared
23 exhibit list; is that correct?

24 MS. LIN: Correct.

25 HEARING EXAMINER VANCIL: Okay.

1 MR. LUTZ: Yes.

2 HEARING EXAMINER VANCIL: So you're
3 e-mailing a copy of it now, and we're all seeing it on
4 share screen?

5 MS. LIN: Yes.

6 HEARING EXAMINER VANCIL: Thank you.

7 MS. LIN: I just e-mailed it.

8 HEARING EXAMINER VANCIL: Thank you.

9 MR. LUTZ: And in addition, just to
10 complicate things, Mr. Examiner, I'm going to be using
11 information from a PricewaterhouseCoopers report that
12 requires PricewaterhouseCoopers's permission to use as
13 an exhibit or publish, which we're seeking but don't
14 have yet.

15 So I'm fairly confident Mr. Macaulay is
16 familiar with it, and I'm going to be reading
17 information from it that is incorporated into this
18 spreadsheet. But we're not in a position yet to file
19 it as an exhibit. We're hoping to get that permission
20 in what I guess would be the ordinary course of
21 seeking that permission from PricewaterhouseCoopers.

22 E X A M I N A T I O N

23 BY MR. LUTZ:

24 Q So, Mr. Macaulay, good afternoon, and I'm
25 going to try to make this brief. But one of your

1 contentions during your testimony is that your special
2 benefit of -- total of \$447,908,000 is so far in
3 excess of the special benefit percentage assessment
4 that are being made against the property owners that
5 there's really a very comfortable margin of error in
6 your analysis. Is that a fair summary of your
7 contention?

8 A No. I'm not saying there's a -- there's a
9 comfortable margin of error. There's just -- there's
10 a difference between the \$346 million total cost and
11 ultimately what we came up with as the sum of the
12 total benefits attributable to the market value as of
13 October 1, 2019, that we estimated.

14 Q Okay. Well, let me ask this a different way.
15 When you've assessed -- when you've calculated your
16 total special benefit, you've made a number of
17 assumptions, and you've attributed them essentially to
18 analysis that would be consistent with eminent domain
19 analysis. And that includes ignoring construction
20 disamenity between October 2019 and when the
21 improvements are delivered in 2024 as one example.

22 A second is you're ignoring permitting risk,
23 construction risk, economic risk, and the last is that
24 you're not required to do any sort of present value
25 analysis. You simply assume that everything is done

1 up and finished in October 2019. Is that a fair
2 assessment?

3 A Yes, Mr. Lutz, as I've said many times, that
4 the scope of my services is not to discount anything
5 from that 2024 back to a present value. The scope of
6 my services was to estimate market value of the
7 project in the hypothetical before conditions and the
8 assumptions that the six main elements that comprise
9 the LID improvements were completed as of October 1,
10 2019.

11 So any discounting from 2024 back to some
12 present value is totally outside the scope of services
13 and the scope of my assignment and wasn't done and
14 wasn't considered.

15 Q Okay. Well, let me ask you now as a
16 hypothetical. Assume that the law of LIDs requires
17 you, in fact, in this situation to take all those
18 matters into account. How would you go about doing
19 that?

20 A Well, it doesn't and I'm not going to
21 speculate on what that would be. It's not something I
22 did. It's not something I've ever done in 30 years of
23 doing an LID as being asked to value something in the
24 future and net present value back to the present. You
25 know, think about that. Over 120 LIDs over 30 years,

1 I've never, ever been asked to do some sort of look
2 like this -- whatever it is you put up here. It's
3 just -- it's irrelevant to what I did.

4 Q Well, I'm asking you as an expert as a
5 hypothetical to talk about how your analysis would go
6 about analyzing net present value of improvements to
7 be delivered in five years?

8 A Well, again, it's irrelevant to do that in the
9 context of this study. I've never done it in the
10 course of my career, so I'm not going to speculate on
11 anything like this.

12 Q Well, it's not a speculation. It's a
13 hypothetical question for an expert which I'm allowed
14 to ask you.

15 A Okay. Ask. I'm not going to answer it
16 because I don't see any relevance to what I did with
17 what you're showing here.

18 Q All right. So let's just assume that you're
19 legally incorrect and that this is, in fact, a
20 requirement of forming and assessing charges for an
21 LID for improvements that have not yet been entitled
22 and will not be delivered for five years.

23 Have you ever done an appraisal that did an
24 LID assessment for improvements that are not yet
25 entitled and will not be delivered for five years?

1 A We -- the last one we did for the City of
2 Pasco would probably be the most comparable. You
3 know, again, it's probably going to take them two or
4 three years to construct that road, and that was -- we
5 closed out that LID a year ago. That would be the
6 most -- most similar one I can think of.

7 Q And did they have permits?

8 A Again, I can't remember exactly how far along
9 in the process they were.

10 Q All right. Well, let me ask you a different
11 question. When you are looking at doing a present
12 value analysis independent from an LID for real estate
13 for something that's not yet built and is not yet
14 entitled, would PricewaterhouseCoopers' land valuation
15 reports be a relevant, reliable document that
16 appraisers would typically look to?

17 A I don't know. Just it would depend on what
18 we're doing and whether that information was relevant.
19 There's a lot of other sources that we looked at as
20 well.

21 Q Okay. And are you familiar with a Korpacz
22 report? I'm probably mispronouncing that.
23 K-O-R-P-A-C-Z. It's a component of
24 PricewaterhouseCoopers?

25 A Yes. I've heard of it.

1 Q Okay. Is that a source of information relied
2 upon by appraisers?

3 A Again, it would just depend on what you're
4 talking about. What are you appraising?

5 Q Okay. I'm going to do a present value
6 analysis of your \$447,908,000 project on the
7 assumption that it's not yet built and it will be
8 delivered in September 2024.

9 So, first of all, I will read you what the
10 report says about forecast value change, and this is
11 for Q2 2020, so it is in the -- there's some COVID
12 information in here. But it says: Over the next
13 12 months surveyed investors hold mixed opinions
14 regarding value trends for national development land
15 market. Their expectations range from minus
16 40 percent to plus 5 with an average expected value
17 change of minus 6.9 percent. This is far below where
18 it was six months ago (plus 2.3 percent) as well as
19 one year ago (plus 3.2 percent).

20 So what we've done is used the six-month-ago
21 reported forecast value change and incorporated that
22 in, you'll see, Columns B through G, line seven. And
23 as a result of that, using that 2.3 percent, the
24 \$447,908,000 current present benefit escalates to
25 501,849,980 as of 2024. So it's an increasing amount.

1 The next item is construction impact. So
2 you've assumed you don't have to consider the
3 disamenities of five years of construction. We have
4 instead assumed somewhere between 2 1/2 and 5 percent
5 a year. So applying your practice of pick a low and a
6 high and pick the middle, that was a construction
7 impact of 3.75 percent each year for five years.

8 Does that seem like a reasonable assumption
9 about construction disamenity if you were required to
10 consider it?

11 A I have no idea, Mr. Lutz. You did this. I
12 didn't. I would never do anything like this. I've
13 never been asked to do anything like this, and in all
14 the years I've been doing LIDs, it's just an
15 irrelevant exercise as far as I'm concerned.

16 Q Okay. So if that turned out to be wrong, your
17 appraisal goes out the window, but let's just continue
18 this.

19 HEARING EXAMINER VANCIL: Mr. Lutz.

20 MR. LUTZ: Yes.

21 HEARING EXAMINER VANCIL: Mr. Lutz, I
22 just want to check with you. Ms. Lin was coming
23 forward as the representative for your folks, and,
24 usually, I don't have multiple attorneys coming in for
25 parties. I wouldn't allow Mr. Lee or Ms. Thompson to

1 step in for the City, for example, now. Mr. Filipini
2 is doing this witness.

3 So Ms. Lin had indicated she was going to wrap
4 up about 3:45, 4:00. She did right on time. I've got
5 a witness that's not able to answer the questions on
6 items I can't see. How long -- amount of time do we
7 anticipate spending with this witness that maybe could
8 be coming in through your own witness by declaration
9 or response? There's a line of objectors that have a
10 right to get in.

11 MR. LUTZ: Absolutely. Absolutely,
12 Mr. Examiner. I have basically two more questions.

13 HEARING EXAMINER VANCIL: All right.
14 Let's get through those.

15 BY MR. LUTZ:

16 Q And so what the Korpacz report also says is
17 that: Free and clear discount rates include --
18 including developer profit. Developer's profit range
19 from 10 to 25 percent and average 5.2 percent this
20 quarter. This average is 70 basis points lower than
21 six months ago. Without entitlements in place,
22 certain investors will increase the discount rate
23 between 100 and 1,500 basis points at average increase
24 of 338 basis points.

25 So I'm using the lower discount rate of 15.2

1 rather than 15.9 as a starting point. I'm increasing
2 that by 338, meaning 340 basis points. That results
3 in a discount rate of 18.54 percent. Would you agree
4 with that math?

5 A I don't agree with anything you're doing here,
6 Mr. Lutz. It has no relevance to what I did and my
7 benefit study.

8 Q All right. And so if I apply -- would you be
9 surprised that the net present value of the
10 \$447,908,000 present value you have calculated with
11 all the assumptions that disamenities, discounts, and
12 risks are assumed away that the net present value of
13 that \$447,908,000, benefit using these data from the
14 Korpacz report of PricewaterhouseCoopers, is 159
15 thousand 250 dollars and 942 cents?

16 MR. FILIPINI: And I'll just object,
17 Mr. Hearing Examiner. The questions are incredibly
18 compound and complex, and I'm having a hard time
19 tracking them.

20 HEARING EXAMINER VANCIL: Mr. Lutz, any
21 response to the objection?

22 MR. LUTZ: I can ask three questions.

23 HEARING EXAMINER VANCIL: I'm in the
24 same boat. I'm not able to follow because you're
25 reading stuff I can't see. And, again, you're asking

1 a whole hypothetical that, again, you could present
2 through one of your responsive witnesses in a
3 declaration that lays it out very nicely and I could
4 follow you.

5 MR. LUTZ: And, Mr. Examiner, that's
6 fine. We -- this is a demonstrative exhibit, and we
7 will submit it in a responsive declaration.

8 HEARING EXAMINER VANCIL: Any further
9 questions? Ms. Lin or Mr. Lutz, any further
10 questions?

11 MR. LUTZ: Mr. Lutz has none and turns
12 it back over to Ms. Lin.

13 HEARING EXAMINER VANCIL: Thank you.

14 Ms. Lin, I don't know that your microphone is
15 on.

16 MS. LIN: Is that better?

17 HEARING EXAMINER VANCIL: It was on,
18 just not --

19 MS. LIN: So just going to admit
20 Exhibits 123, 124, 126, and 132.

21 HEARING EXAMINER VANCIL: Okay. And
22 let's do that. Any objections to -- any objection to
23 Exhibits 123 -- well, let me ask first, actually:
24 What's the plan for the other exhibits we did not use?

25 MS. LIN: Yeah, I was going to ask if

1 you have a -- if you have a preference there.

2 HEARING EXAMINER VANCIL: We've had --
3 this is -- even in my regular land use hearings, it's
4 not uncommon to allow things to come in by explanation
5 of an item, and this is a broad, open record. I
6 recognize objectors need an opportunity to get in what
7 they want. I don't want a document dump, but we've
8 just got a few documents here.

9 If you believe they're relevant, if you're
10 referencing them in your cross response documents, you
11 can -- for the sake of keeping our record clear with
12 exhibit numbers, I would allow them to be admitted.
13 If you're not going to use them at all, then we just
14 leave a gap in the record.

15 Any objection to that? The City could raise
16 that now and let me know if that's a problem.

17 MR. MOSES: Mr. Vancil?

18 HEARING EXAMINER VANCIL: Yes.

19 MR. MOSES: This is Victor Moses. In
20 doing our coordination, if one of our objectors was
21 submitting an exhibit, we asked others not to resubmit
22 the same exhibit so we didn't just flood your office
23 with extra documents to look at. And for exhibits
24 that were already in the record, we didn't submit them
25 because we were under the standing -- understanding

1 those would be provided.

2 So our understanding was that somebody was
3 going to take our submission and kind of compile them
4 into a composite list of documents, and so even though
5 Ms. Lin may not be using one of those documents, it's
6 possible one of the other objectors may be using them.
7 I don't have a list of each document they're using in
8 front of me.

9 HEARING EXAMINER VANCIL: Okay. All
10 right. I understand your point, and that's well
11 taken. I think that's helpful. Again, this is about
12 trying to maintain some sense of order and clarity for
13 the arguments you'll be raising and the record.

14 I don't plan on developing a composite list.
15 As we indicated, we're doing a list of exhibits under
16 each case number and the City's case. We'll stick
17 with that, but for the sake of clarity, I think it
18 behooves us to keep all the exhibits together that are
19 identified by the objectors that have presented so far
20 for Cases 233 and etc.

21 And so that would be -- those would be Exhibit
22 Numbers 123, and, Ms. Lin, if you can remind me the
23 highest number that you have there.

24 MS. LIN: 132 which is Mr. Lutz's
25 exhibit that just came in.

1 HEARING EXAMINER VANCIL: Okay. And we
2 have already admitted 130. So is there any objection
3 to Exhibits 123 through 132 excepting 130?

4 MR. FILIPINI: I do object to 132.
5 That was the spreadsheet we were just going through.
6 I don't believe a foundation was laid adequate to
7 admit it at this point. The witness had never seen it
8 before, didn't know what it was, and there were quotes
9 coming in, in describing it from a source that we
10 haven't seen and may not be able to see. So I would
11 object to admitting 132.

12 HEARING EXAMINER VANCIL: Okay.
13 Excepting 132, Exhibits 123 through 129, sorry, and
14 131 are admitted.

15 (Exhibit 125, Exhibit 126, Exhibit 127,
16 Exhibit 128, Exhibit 129, and 131 were admitted.)

17 HEARING EXAMINER VANCIL: 132, is
18 there -- Ms. Lin, did you want to make a response or
19 Mr. Lutz before I rule on the objection?

20 MR. LUTZ: This is Jerry, Mr. Examiner.
21 As I said when I ended the testimony, we will
22 anticipate introducing it through a declaration of an
23 expert and at this point just consider it
24 demonstrative.

25 HEARING EXAMINER VANCIL: Okay. I

1 don't need to rule on it then. It was like everything
2 we have put on the screen so far that has been purely
3 illustrative. It's not -- they're not -- the
4 objectors are not speaking to admit it, and,
5 therefore, there's no need to make a ruling.

6 Thank you very much. Anything further from
7 the group of cases represented by Perkins Coie, 233,
8 etc.

9 MS. LIN: Nothing further from me.
10 Thank you.

11 HEARING EXAMINER VANCIL: Thank you
12 very much. I appreciate getting to this point.

13 Our next objector is Scott Edwards.
14 Mr. Edwards, I believe you're ready to go with your
15 questions for Mr. Macaulay?

16 MR. EDWARDS: Yes, I am. This is Scott
17 Edwards from Lane Powell representing the Objector
18 CWF 0314. I'm planning on starting with the City's
19 Exhibit C-17, which is the final report. Would it
20 be -- I've probably got about 10 pages within there
21 that I want to focus on. I can share my screen if
22 that would be more convenient for people.

23 HEARING EXAMINER VANCIL: Yes. Thank
24 you for asking, Mr. Edwards. I think it seems to be
25 working well for us to do share screen. We haven't

1 crashed our system yet, and I've been told by my legal
2 assistant it doesn't foul anything up for us on the
3 recording end. So I'm going to trepidatiously allow
4 the screen sharing as much as we can because it does
5 seem to facilitate this.

6 MR. EDWARDS: Hopefully -- is everybody
7 able to see my screen now?

8 HEARING EXAMINER VANCIL: Not yet.

9 MR. EDWARDS: Not yet. Okay. Clearly,
10 I'm not very competent on this then. I guess I have
11 to hit the share button.

12 HEARING EXAMINER VANCIL: There you go.

13 E X A M I N A T I O N

14 BY MR. EDWARDS:

15 Q Okay. So this is, as I had mentioned,
16 Exhibit C-17 introduced by the City. You'll see their
17 numbering over there, which I intend to start on
18 page 3 of that document. The highlighted portion
19 makes reference -- and this is describing the before
20 without LID existing situation.

21 It says: There is poor connectivity between
22 the Puget Sound Shoreline/Alaskan Way vicinity and the
23 higher foundation city streets, Western Avenue, due to
24 topography, historical street layout, and other
25 issues. Do you see that that, Mr. Macaulay?

1 A Yes.

2 Q What is the elevation differential between
3 Alaskan Way and Western Avenue?

4 A I think there we're just referring to trying
5 to get through the Pike Place Market area, a very
6 steep incline, stairs, and difficulty that -- the
7 connectivity difficulty getting through the Pike Place
8 Market area that that will vastly improve with such
9 amenities like the Overlook Walk and Union Street
10 connection and things of that nature.

11 Q What is the actual elevation gain between
12 Alaskan Way and Western Avenue?

13 A I don't know the exact elevation change.

14 Q Then the reference "due to topography," that's
15 referring to the steep grade between those two
16 streets --

17 A Yes.

18 Q -- as you move east from the water?

19 A Yes.

20 Q The historical street layout, what is that
21 referring to?

22 A Just the way the streets are currently
23 situated, just a comment on it.

24 Q Is there going to be a change to how the
25 streets are situated?

1 A No. I think we're mainly referring to here is
2 the connectivity improvement that will occur.

3 Q This is describing the before condition and
4 the poor connectivity due to -- you've got two things
5 specifically laid out. And then the last item says
6 "and other issues." What are some of the other issues
7 affecting poor connectivity between Alaskan Way and
8 Western Avenue?

9 A Yeah, I don't recall specifically what we're
10 talking about there. It could deal with poor lighting
11 that is difficult to get around at night or things of
12 that nature. I don't recall specifically what we're
13 talking about there.

14 Q Okay. And then in the following sentence is
15 the one describing the after condition. It says:
16 With the LID project completed, accessibility to the
17 Waterfront from nearby areas, including the Pike Place
18 Market, downtown business district, and Pioneer Square
19 will vastly improve. Do you see that?

20 A Yes.

21 Q So what are going to be the vast improvements
22 to connect the Waterfront to the downtown business
23 district?

24 A Well, you'll have the Overlook Walk. There
25 will be many different ways that you could get down to

1 the new Promenade area from the Overlook Walk, a lot
2 better signage and connectivity routes through Pike
3 Place Market up to the downtown Pike/Pine corridor
4 area.

5 Q Can you describe what you mean by "many
6 different ways to get down"?

7 A If you look in the addenda, there's an exhibit
8 that shows the before and after access points and how
9 they differ, and that would be -- I would just refer
10 you to that.

11 Q Okay.

12 A There's a map -- I can't remember if the
13 map -- if we put the map in the report or if it's in
14 the addenda, but there's a map that depicts the access
15 point differences in the Pioneer Square -- excuse me.
16 The Pike Place Market area.

17 Q All right. I apologize. I'm not sure what's
18 happening with this blurb going over, but I wanted to
19 also call your attention and moving gears a little bit
20 at the end of your discussion with Ms. Lin, there was
21 some conversation around reference in the report what
22 was retained in the -- in your files.

23 I've highlighted in blue this half sentence:
24 Supporting documentation is retained in the
25 appraiser's files. Is that the reference that you

1 were remembering with respect to what is in the report
2 about supporting documentation being retained?

3 A Yes.

4 Q And can you describe a little bit what the
5 nature of the supporting documentation is that's been
6 retained?

7 A Have you not looked at the backup data file
8 that is -- we provided?

9 Q Okay. I have not. I have not received a
10 backup file, but I'm now going to the link that
11 Ms. Lin had referred to and all these materials that
12 are on the Seattle clerk's website. Is this the
13 information that you're referring to?

14 A Yes.

15 Q Okay. If we go through all of this
16 information, we see 34 different links. And we saw
17 with one of them, within each of those links, there's
18 a number of files and various content; is that
19 correct?

20 A That's correct.

21 Q Are the individual spreadsheets that were used
22 for determining the values of the roughly 1,050
23 commercial properties anywhere in any of this
24 information?

25 A No. They've just been provided to those

1 people that have appealed their assessment for the
2 purposes of this hearing.

3 Q If we go back now to the -- to the report -- I
4 apologize. I must still be at the bottom of page 3.
5 Go down just a little bit. And in page 3 here, this
6 is part of the cover letter you had described it as
7 when you were on direct examination with Mr. Filipini
8 earlier; is that correct?

9 I apologize for not being very competent here
10 with trying to deal with the photo images of the three
11 of us alongside, but what I'm trying to -- what I'm
12 doing is focusing at the bottom of page 3 of
13 Exhibit C-17. There's a reference to the variety of
14 different types of properties that are located within
15 the LID boundary. Do you see that?

16 A Yes.

17 Q And the -- would it be fair to say that the
18 impact of the LID improvements differs for different
19 types of properties? In other words, high-rise office
20 buildings are impacted differently than high-rise
21 condominium structures?

22 A Yeah. There are some -- there are some
23 differences, yes.

24 Q Okay. What are some of the main differences?

25 A Just the market's projected what the before

1 and after values would be based on the highest and
2 best use of the different types of properties.

3 Q What are some of the factors that impact the
4 different market value perspective for different
5 properties?

6 A Well, for instance, the office market most
7 likely would be a little less impacted by it. It
8 would be a nice amenity for them. The retail market
9 would be impacted a little bit more with the increase
10 in tourism and the potential for revenue increase and
11 sales, things of that nature.

12 Q So the increase in value attributable to
13 retail properties is generally a result of an
14 expectation of increased sales volume resulting from
15 the construction of the LID amenities; is that
16 correct?

17 A Yeah, that and increasing the investment
18 desirability of the building, the market appeal of the
19 building, and the marketplace.

20 Q And isn't the market appeal of a retail
21 property the volume of sales that it generates?

22 A That would be one element, yes. I think the
23 aesthetic appeal, having just a better relative
24 location in the market.

25 Q A pretty building that generates a million

1 dollars of net revenue is worth more than an ugly
2 building that generates the same million dollars of
3 net revenue?

4 A Well, I think the investor would like a more
5 aesthetically pleasing area to have either one of
6 those buildings in.

7 Q Was the aesthetics of the exterior of the
8 commercial properties one of the factors that you
9 looked at in determining what the range of rent
10 increases or decrease in capitalization would be after
11 the construction of the LID improvements?

12 A To some degree. When you're appraising any
13 property, the elements of the existing improvements,
14 if they're an example of the highest and best use of
15 the site, would be considered.

16 Q Let me move on to the next page, the first
17 full paragraph after -- because the beginning of that
18 is the continuation of the prior paragraph describing
19 different types of properties.

20 It says: Special benefit to affected
21 properties is derived from enhanced relative location
22 provided by the LID improvements.

23 Can you please describe what that means? What
24 is the enhanced relative location of a property
25 provided by the LID improvements?

1 A Well, elements such as the Overlook Walk, the
2 Promenade, things of that nature tend to enhance the
3 relative location of the property in the marketplace
4 in our opinion.

5 Q I still don't understand what you mean. If
6 we've got a property that's 2,000 feet away from the
7 Promenade, what is its enhanced relative location?

8 A Well, I just think it's a market factor where
9 the market would perceive the proximity of the -- that
10 property to the Waterfront as a positive amenity.

11 Q And what's the percentage of rent increase
12 that the market would give for that perception?

13 A It would vary depending on what type of
14 property it is and where its location is relative to
15 the before and after conditions.

16 Q If we -- if we move down to the next
17 paragraph, there's a reference to areas A, B, C, D,
18 and E. Do you see that?

19 A Yes.

20 Q Are you familiar with those area concepts?

21 A Yes. We originally derived those going back,
22 I think, to the feasibility study just to -- as kind
23 of a basis from moving from the Waterfront towards the
24 I-5 area or towards the east.

25 Q Okay. And you indicate that properties within

1 those areas experience different degrees of special
2 benefit due to variations in proximity to the above
3 project elements.

4 Does that mean, for example, that area A is in
5 different proximity to the many improvements than,
6 say, area E?

7 A Well, there's some overlap there. I mean, we
8 originally set those up just kind of as a descriptive
9 element to show the various areas.

10 Q So the -- which area a particular parcel is in
11 no longer affects the degree of special benefit?

12 A Say that again, please.

13 Q So are you suggesting that which area a parcel
14 is in no longer affects the extent of the special
15 benefit received?

16 A No. As I said, we were just using those areas
17 for informational purposes, just for descriptive
18 purposes to inform the reader. They were just used in
19 that context.

20 Q So is it true or false that properties within
21 area A have a different proximity to the Waterfront
22 amenities than the parcel in area E?

23 A Well, again, there's some overlap there, and I
24 believe area E comes down pretty close to the
25 Waterfront from the Pike/Pine corridor in that area.

1 So there's some overlap in those areas.

2 Q Move down towards the bottom of the page here,
3 and, again, I'm changing topics. But I want to try to
4 move through the document sequentially.

5 With respect to the before valuation in your
6 special benefit study, there's been a lot of
7 discussion around the impact of the removal of the
8 viaduct and the improvements to Alaskan Way.

9 As I read this last sentence, it -- am I
10 correct in understanding that it's describing the
11 assumption of the removal of Alaskan Way as obviating
12 the need to take into account a change in view when
13 determining the difference between the before and
14 after values?

15 A Well, no. We're just saying that both in the
16 before or without condition and the with condition
17 that the viaduct is no longer there, and so --

18 Q You're also saying specifically any view
19 amenity enhancement created by removal is not
20 considered; right?

21 A Correct.

22 Q You're not having to worry about whether or
23 not a property's view got enhanced as a result of the
24 removal of the viaduct. That's the main purpose of
25 assuming that it's done; am I correct in understanding

1 that?

2 A Yes. In the before the viaduct is no longer
3 there. So there's no view obstruction. And in the
4 after the viaduct is no longer there, so there's no
5 view obstruction.

6 Q And so for a property that did not have a view
7 obstruction, that hypothetical wouldn't have a
8 material impact on the before value calculation;
9 correct?

10 A It may. Well, I mean, if there was -- no. If
11 there was no view obstruction, yeah, no. The impact
12 in the before wouldn't have been reflected in the
13 market.

14 Q And I'm going to move on now to page 5.
15 Again, I have highlighted the portion, and you've
16 testified earlier today that that proportionality
17 between the different parcels is one of the key things
18 that you were concerned about; correct?

19 A It's one of the key factors in the statutes
20 that we have to comply with when doing our study.

21 Q Okay. And then at the end of the sentence, it
22 talks about, you know, the -- that those values are
23 based on consideration of highest and best use with
24 values derived from comparable sales data. Do you see
25 that?

1 A Yes.

2 Q And is this indicating that all of the 6,000
3 properties within the LID area were valued on the
4 comparable sales methodology?

5 A Where the data was available, the sales were
6 utilized. The 5,000 condominium units, yes, all of
7 those were analyzed on a comparable sales basis. The
8 vast majority of the downtown property consisting of
9 Belltown, the downtown core, Pioneer Square, we had
10 sales data for the vast majority of those properties.
11 There were some special purpose properties that there
12 was no comparable sales data.

13 Q Isn't it the case that all of the commercial
14 properties, the roughly 1,050 commercial properties,
15 were valued using the income approach rather than the
16 comparable sales approach and that the comparable
17 sales data was only used as a check on reasonableness?

18 A Well, yes, this is -- you're taking one
19 statement out of a large report where we talk about
20 utilizing the income approach consistently throughout
21 the study. So, you know, that's one context in the
22 whole report.

23 Q Right. And I'm taking you now to page 8 where
24 this reflects the -- I think what you've just said
25 that the comparable sales approach was primarily used

1 for the retail -- excuse me. For the residential
2 properties with the income approach.

3 Actually, let me back up. I've maybe jumped
4 ahead a little bit. But here we're talking about --
5 it does indicate that you've also used the income
6 approach. I want to focus on this second sentence.

7 The primary reason the market reflects
8 increased value due to the project is enhanced
9 location and improved pedestrian connectivity and
10 higher market appeal created by the Waterfront
11 improvement amenities. In the income approach, this
12 is reflected in increased rents and lower vacancy
13 levels, higher capitalization rates as lower perceived
14 investment risk. Do you see that?

15 A Yes.

16 Q Earlier today you were taken through some of
17 the individual spreadsheets that were used, and we saw
18 high and low percentage rent or room rates and high
19 and low valuation or capitalization rates. Is that --
20 are those changes in those two levers the way by which
21 the increase in market value was measured in your
22 study?

23 A Yes. Those were the factors we saw in the
24 marketplace in another -- other study areas we looked
25 at. And, obviously, there's an interrelationship

1 between the sales comparison approach and the income
2 approach in the sense that the overall capitalization
3 rates are derived from the income approach. So
4 there's interrelationship there relative to the
5 comparable sales.

6 Q And there are no studies that specifically
7 quantify the expected percentage of rent increases or
8 the expected percentage decrease in capitalization
9 rates that would be tied to any particular type of
10 enhancement that might be a component part of the --
11 part of the LID improvements; is that correct?

12 A A number of the studies we looked at touch on
13 varying degrees of, say, office rent or retail sales
14 increases, things of that nature. But, no, there was
15 no specific study on, say, capitalization rate changes
16 that we utilized.

17 It was primarily based on our judgment looking
18 at the property and the before and after condition
19 based on all of the other studies we looked at and,
20 again, our judgment and the information, obviously, we
21 had, extensive information we had obviously in the
22 Seattle market area.

23 Q And you didn't start with any type of
24 formulary or methodological approach to applying
25 either rent increases or capitalization rates to the

1 various commercial properties; is that correct?

2 A Well, if you look at our backup data, we've
3 got extensive comparable sales sheets that reflect
4 various ranges of capitalization rates for, say,
5 historic properties versus apartments versus --

6 Q Yeah. That's not the question that I asked.
7 The question is whether you used a specific method or
8 formula. So, for example, did you say, okay, starting
9 immediately adjacent to this amenity, you know, the
10 rent increase is going to be assumed to be X. And for
11 every so many feet away, we're going to reduce the
12 high and low of those assumptions. You didn't do
13 anything even conceptually like that; correct?

14 A Well, I don't think anything like that would
15 reflect the market. You've got to look at each
16 property.

17 Q Well, haven't you indicated that proximity to
18 the amenities is one of the key things that the market
19 looks at?

20 A Yes. And it may change from parcel to parcel
21 depending on the type of use, the desirability of the
22 investment, things of that nature.

23 Q Sir, how do you make the determination of how
24 the market will consider those things if you're not
25 using some type of standard rule of thumb that you're

1 applying as you get further away? Could you have a
2 situation where immediately adjacent you've used one
3 percentage rate increase and further away you actually
4 use a higher rate even though the general perception
5 would be that further away there would be less of a
6 benefit?

7 A (Inaudible) estimate the fair market value of
8 the properties, so that's more reflected in the
9 proportionality that you see from the before and after
10 values where you'll see that type of consistency when
11 you're looking at the proportionality on the before
12 and after market value estimates.

13 Q Isn't it true that the after values are a
14 direct result of how high or low your percentage
15 increase levers there are?

16 A Well, they'll vary depending and -- again,
17 looking at the different scenarios based on market
18 rent, vacancy change, capitalization rates change.

19 Q But let's walk -- so if you make an assumption
20 that the rent is going to increase 2 percent, you're
21 going to get a higher after value than if you made an
22 assumption that the rent is only going to increase
23 1 percent; correct?

24 A Well, again, I mean, it would depend on --

25 Q Is that true or false? It's a straight-up --

1 A Typically, that's true, yes.

2 Q Give me a situation in which increasing the
3 rent in an income approach would result in a lesser
4 increase in value.

5 A Well, if some assumption was made that rent is
6 going to go up and it would increase the investment
7 risk so much in a property and the capitalization
8 rates would be higher, it could create a lower value,
9 but it's typically not the case.

10 Q All right. So even though it's typically the
11 case that the further you get away from the amenity
12 the lesser the impact of a potential rent increase is,
13 you did not use a specific methodology to set your
14 assumptions. But you, instead, made individual
15 determinations for all 1,050 plus commercial
16 properties?

17 A That's correct.

18 Q Is it possible that you could have similar
19 properties right next door to each other that had
20 different assumptions made about rent increases, for
21 example?

22 A What we're reflecting is the market, and it
23 would depend on the type of property and the type of
24 space you're talking about.

25 Q Is it possible or is it not possible?

1 A Well, it's certainly possible. You could have
2 a -- two similar retail buildings next to each other
3 and one has a real high level of build-out and would
4 command a higher market rent both in the before and
5 after than the adjacent property which needs a lot of
6 tenant improvements. And, therefore, in the before
7 and after, it would still reflect the difference in
8 rent change, but the rent amount would be different.

9 Q Well, let's distinguish between different
10 rental amounts and different percentage increases in
11 rent. A different rent amount is talking about
12 different starting points that gave you your before
13 value, but your after values were calculated based on
14 assumed percentage increases; isn't that true?

15 A That was one of the ways we looked at it. We
16 also considered vacancy. As you got further and
17 further out, there may have been no rent change but
18 maybe a little vacancy change and a very small
19 capitalization rates change. It just depended on
20 where the property was located at and the type of
21 property and how we felt it would be reflected in the
22 market, both before and after the LID.

23 Q As a result of your individual judgment on
24 each of those 1,050 parcels without any specific
25 consistently applied methodology; correct?

1 A Well, we're applying a consistent methodology
2 in that we're looking at each parcel as it exists in
3 the marketplace based on its highest and best use.

4 Q So we've got two properties right next door to
5 each other. You've determined that both of them are
6 occupied at their highest and best use. They are the
7 same type of property, whether they're both high-rise
8 office buildings or both large retail establishments.

9 What would cause you for immediately next door
10 properties that are very similar to each other to make
11 a decision that you're going to apply a different
12 percentage rent increase estimate to calculate a
13 future value?

14 A Well, there may be some differences, again, in
15 build-out, in the appeal of the property in the
16 marketplace.

17 Q And where would a reader of your report be
18 able to discern that that was the basis for your
19 having made those different decisions?

20 A Well, part of a process like this is hearings
21 and appeals to what we do. So property owners that
22 would like to appeal can ask questions like you are to
23 try to gain that information. We don't do individual
24 reports on each property.

25 Q Okay. Let me kind of try to maybe reframe us

1 a little bit. Isn't the basic question being asked
2 with respect to coming up with a special benefit
3 amount is how much more would an investor pay for a
4 specific piece of property based exclusively on the
5 LID improvements and on no other considerations; is
6 that correct?

7 A Yes. It's the market value difference in the
8 before condition compared to the after condition.
9 That measurable difference in market value is the
10 special benefit.

11 Q And so the key thing that we're trying to
12 isolate here is the increase in value that is
13 specifically and exclusively attributed to the LID
14 improvement, not differences in value that are
15 attributable to other factors; correct?

16 A Well, those other factors would be relevant in
17 the before condition, so, yes, we're looking at what
18 changes occurred in the after. And in this instance,
19 it's the six components that comprise the Local
20 Improvement District.

21 Q And the method by which you measured that
22 so-called special benefit, the difference in an amount
23 that an investor is assumed to be willing to pay if
24 the property had -- was benefited by the LID
25 improvements was computed by looking at ranges of

1 potential value changes attributable to a range of
2 rent increases, a change of occupancy rates, and/or a
3 change in capitalization rates; correct?

4 A Yes. Both of those methods were applied both
5 in the before and after to derive an indication of
6 what the market value difference would be. Those were
7 also then compared to comparable sales to -- it's a
8 test of reasonableness to the conclusions, and also
9 the sales were used to derive capitalization rates for
10 the various types of properties.

11 Q So all of the comparable sales that were used
12 resulted in actual transactions that were not impacted
13 at all by the after characteristics; correct?

14 A There were some sales that occurred after the
15 LID was formed, so there would have been some
16 knowledge in the marketplace of anticipation of the
17 LID improvements that they -- but, no, obviously, the
18 LID improvements weren't constructed at that time. So
19 they would have had a preliminary assessment and been
20 aware of the project, but it wouldn't have been fully
21 realized within the context of the sales price.

22 Q So they would know that the product -- the
23 parcel was subject to the cost of the future
24 assessment; correct?

25 A Yes. And that future assessment was then

1 based on an estimate of the market value change during
2 the time of the formation study.

3 Q And a number of those before -- or those
4 comparable sales were several years ago; correct?

5 A Well, our study was in October 2019, and we
6 had a number of sales.

7 Q It's 2017 and some even earlier than that;
8 correct?

9 A We had a number of sales in May of 2019.

10 Q Did you also have sales in 2017 that were
11 used?

12 A Yes. We had -- we looked at sales as far back
13 as then for the final and even further back from then
14 when we were doing the formation study.

15 Q And all of those sales didn't even take into
16 account at that time the before improvements that were
17 part of your -- your analysis; correct?

18 A Not in the formation study, no.

19 Q And when you say "not in the formation study,"
20 you're meaning I am correct in what I said; correct?
21 You're agreeing with me, or are you disagreeing with
22 me?

23 A I'm agreeing with you. They wouldn't -- they
24 wouldn't have known about the project during the --
25 well, they wouldn't have known about those elements of

1 the before condition in the formation.

2 Q I'm going to now jump ahead to -- and I'm
3 going to try to pick up the pace here. This is just
4 the table of contents, and there's been reference to
5 two different spreadsheets. I just want to confirm
6 that this S-1 to S-13 and S-1 to S-79 are those two
7 different big spreadsheets for the commercial and the
8 residential properties that, basically, follow right
9 after the table of contents here?

10 A That's correct.

11 Q And then if we go down to the -- I'm not sure
12 why I'm having difficulty here scrolling your -- oh,
13 here we go. I'm in the wrong bar.

14 So if we go down further, there's an area here
15 that right in the middle that talks about these
16 different areas A to E and the different neighborhood
17 descriptions. Is there a correlation between the
18 various areas and the neighborhoods?

19 A No. They overlap, but, again, when we
20 originally started doing this study, we set up those
21 areas just more for observational, informational view
22 of the LID boundary area. There's really no
23 relationship between those and the neighborhoods.
24 They overlap.

25 Q I'm moving now to page 116 on the document,

1 and about the middle of the page, you know, there's a
2 statement that's been highlighted.

3 Typically properties closer to the Waterfront
4 improvements experience the highest overall increase
5 in market value. Hotels and retail properties
6 reflected slightly higher special benefits in most
7 instances depending on location relative to the LID
8 improvements. Do you see that?

9 A Yes.

10 Q So is that suggesting that properties closest
11 to the Waterfront kind of have the biggest special
12 benefit, and then the next highest grouping would be
13 hotels and retail properties?

14 A Again, depending on their location.

15 Q Can you explain more clearly what you mean by
16 depending on location since you apparently don't mean
17 proximity to the improvements?

18 A Well, I do mean proximity to the improvements.
19 You know, when you get out into the Denny Triangle
20 area and areas like that that the benefit decreases,
21 you know, considerably. So there may not be a lot of
22 difference between the property in that area because
23 of the influence from the LID become less and less as
24 you move further out.

25 And as you move further in to the Waterfront,

1 you know, hotels like the Marriott Waterfront hotel,
2 the Four Seasons, and hotels located closer in
3 proximity to the Promenade and the elements of the
4 Waterfront improvements would reflect a slightly
5 higher increase in value than say an office building
6 that's located nearby.

7 Q Okay. I apologize because -- but I'm
8 tremendously confused right now, because I feel like
9 I've heard at certain points in time that there's not
10 a linear relationship between proximity and impact on
11 value, that it depends on other factors and,
12 therefore, you can't just think about proximity. And
13 I've heard at other times that proximity is the
14 primary driver. Which of those is true?

15 A We look at proximity as well as other factors
16 of the property.

17 Q What other factors?

18 A Well, its use, its location to the
19 improvements. Like I just said, that an office
20 building that's next to a hotel may experience
21 slightly less benefit than the hotel due to the
22 operation of a hotel in conjunction with the types of
23 improvements that are being constructed.

24 Q But a hotel closer to the improvements is
25 going to have a higher benefit than a hotel further

1 away from the improvements, and the same is true for
2 an office building; correct?

3 A Yes.

4 Q And hotels are going to have different
5 relative benefits for amenities than office buildings
6 than retail than sports stadiums and so on and so on
7 for each of the 10 or 12 different properties that we
8 walked through earlier?

9 A Yes. Each property is looked at individually
10 on a parcel-by-parcel basis.

11 Q But you didn't then make a determination that,
12 say, for office buildings here's the linearity that
13 we're going to use for rents as we get more proximate
14 or further away from, and we're going to use a
15 different standard for retail or apartment? You
16 simply used no standard at all for any of them
17 correct?

18 A We didn't use any, like, linear approach like
19 that. I don't think it's really applicable to the
20 market. Each -- each property is going to stand on
21 its own merits and its own -- own physical factors.
22 And to use some sort of linear -- to say they're all
23 going to increase X for proximity and X for aesthetics
24 and X for location, it's just -- in my opinion, that's
25 just not reflecting the market. And so we do it on a

1 parcel-by-parcel basis based on our judgment.

2 Q I'm going to move now to page 122, and we're
3 describing before situation for the Pine/Pike
4 streetscape area, and it's saying -- it's going to
5 assume that westbound vehicular traffic is going to
6 end at the entrance to Pike Place. As I read this --
7 and then it also describes the eastbound as continuing
8 as the current situation.

9 I read that and it seemed to infer that in the
10 after there's going to be a change in the traffic
11 direction on Pike and Pine. That's not true, is it?
12 There's not going to be a change to traffic direction.
13 It's going to be the same in the before and after?

14 A Yes, Mr. Edwards. This LID is not about any
15 street improvements. Both in the before and after,
16 the Pike/Pine Street would be the same.

17 Q I'm going to jump now to page 153, and
18 specifically as I go down, there's a reference here to
19 a New York City Department of Transportation report
20 entitled "The Economic Benefits of Sustainable
21 Streets." Do you see that?

22 A Yes.

23 Q Is that the report that was being discussed
24 earlier today?

25 A Yes, I believe so.

1 Q And if I go to the next page on page 154, this
2 discussion of a New York City -- NYCDOT study, it's
3 referring to the study that we just saw cited on the
4 prior page?

5 A Yes.

6 Q And you specifically call out a particular
7 case study found that within the first year there was
8 a -- it says sales prices in the study area went up
9 18 percent. What does that mean? Is that talking
10 about the sale price of properties in the study area?

11 A I would have to go back and look at the -- at
12 the context of the report. They seem to be talking
13 about -- and it's been a long time since I've read
14 this. So, I mean, I would have to go back and look at
15 it, but it appears they're talking about the sales
16 prices of property in the study area went up
17 18 percent and then even higher within the second
18 year.

19 Q It would be a material difference if they were
20 talking about sales prices of property versus the
21 volume of retail sales at stores; is that correct?

22 A Correct. And in my thinking, that study, I
23 think, dealt more with -- and this -- dealt more with
24 the retail sale price increase, not the sale price
25 increase of the property is my recollection, but,

1 again, I would have to go back through.

2 Q Well, we will be looking at that study as soon
3 as I get off of this page, and it will reflect that
4 your recollection is correct that it was talking only
5 about retail sales at stores and not about selling
6 prices of property.

7 A And that could have been -- that could have
8 just been a misprint there. We should have been clear
9 then to say sale of -- retail price sales or some
10 other clarification there.

11 Q Or retail sales into the area?

12 A Or retail sales, yeah.

13 Q And so -- but your next thing --

14 A Excuse me, Mr. Edwards. If you read the next
15 sentence, we do say -- we do say one of the test
16 neighborhoods had a drop in sales. So we should
17 clarify that. Yes, I agree.

18 Q And then right after that piece, it says:
19 These figures -- I presume you're referring to the
20 selling -- retail sales volume changes -- indicate an
21 increase in value due to the project of 5 percent to
22 14 percent.

23 Did that come from the study or is that your
24 calculation?

25 A I don't recall.

1 Q If I were to tell you that the study doesn't
2 even -- doesn't purport to make any opinions about
3 value increases, would that help refresh your
4 recollection?

5 A Yes. That we would have been -- we would have
6 been inferring those retail sales into -- into an
7 income analysis and what -- what probable range that
8 those types of retail -- those retail sales would
9 reflect in the market.

10 Q And would that be part of the supporting
11 materials retained in your backup files, the
12 calculations on how you got from volume of retail
13 sales to property value increases?

14 A Well, they would be reflected in other studies
15 that were done for various other cities for comparison
16 purposes.

17 Q So you looked at studies that converted
18 sales -- retail sales volume increases into value
19 increases?

20 A I don't know about that specifically, but
21 they -- some of the studies did increase market value
22 differences from various elements of the improvements.

23 Q Aren't you here saying specifically that this
24 increase is tied specifically to sales volume
25 increases; correct?

1 A Yes. What we're saying if the revenue -- if
2 the revenue is increasing in that level, that it will
3 reflect an approximate increase in value from 5 to
4 14 percent.

5 Q And that's basically a formula based on
6 certain assumptions about the capitalization rate;
7 correct?

8 A Yeah. They would have been -- they would have
9 been, you know, an internal estimate we made if it, in
10 fact, is not in the report as you indicated.

11 Q And would you have saved that?

12 A We probably just referenced it here. I don't
13 know if we have a specific analysis saved in the
14 backup file relative to this study or not.

15 Q Okay. Did you use this study to make
16 determinations about percentage of rent increases or
17 capitalization rates that were used in the 1,050 plus
18 individual spreadsheets that you used to come up with
19 a special benefit estimate?

20 A Well, again, they were just used for
21 background information to provide a basis for how the
22 market is reacting to different types of elements
23 within the LID area.

24 Q I'm going to jump now to what -- this is our
25 exhibit, so CWF-0314, Exhibit 9 that was circulated

1 yesterday afternoon. And, obviously, my computer
2 doesn't like having so many different big things open
3 today. If you bear with me for just a minute here, I
4 had this open earlier when I was preparing.

5 MR. EDWARDS: I am still trying to be
6 finished, Mr. Hearing Examiner, by 5:15.

7 HEARING EXAMINER VANCIL: Thank you.

8 BY MR. EDWARDS:

9 Q My first question is going to be: Do you
10 recognize this as a copy of the study that we've just
11 been talking about? Obviously, you're going to -- and
12 you'll see here it's called the Economic Benefits of
13 Sustainable Streets, New York City Department of
14 Transportation.

15 A That looks like a similar study that we
16 utilized that's in our background file.

17 Q And for some reason, my share screen is right
18 where I want to go to try to get to the next page. So
19 if we go here, now, this is page 24 of that same
20 document.

21 And I would point out to you that here we're
22 looking at the 18 percent first year, 48 percent
23 second year, and the range of 7 to 22 with a year of
24 minus 9 percent. Is this the specific case study that
25 was referred to in your report?

1 A Yes, this is one of the case studies that we
2 used for background information.

3 Q My computer is unfortunately mad at me for
4 having so many things open. I wanted to start -- back
5 up a little bit. So this is case Study Number 2,
6 St. Nicholas Avenue and Amsterdam Avenue, and it's
7 hard to get it all on the screen. I'm going to
8 represent to you before I show you that -- the deal at
9 the bottom that the green reflects the particular
10 project, and the mauve or purple or whatever it is
11 reflects the three areas that were used as a
12 comparison. Do you see that?

13 A Yes.

14 Q And so they were comparing the results
15 immediately two blocks north and south of a two-block
16 area and immediately one block east of that same area.

17 A Yes.

18 Q And as I say, the green and the purple are
19 what I reflect there. Here's a description of the
20 project, and it talks about directional changes to the
21 St. Nicholas Avenue as well as a segment of West 161st
22 Street.

23 That's not the same type of changes that are
24 happening anywhere within the Seattle LID; correct?

25 A No. I mean, the Seattle LID is more about the

1 enhancement of the sidewalks, the public space area,
2 adding -- adding more area for restaurants to have
3 tables outside and things of that nature.

4 Q And then I want to take you up here as well
5 where it says: This project was selected for study
6 due to its unique nature as a hyper local retail hub.
7 Most businesses along the project site directly serve
8 the surrounding community and do not generally serve a
9 regional clientele.

10 Would that be accurate to say of all of the
11 commercial and retail space within the Seattle LID?

12 A Well, I think they -- you know, you have a lot
13 of tourism coming in, so they serve more than a
14 local -- a local clientele.

15 Q So it's looking at something -- this
16 particular study is looking at something that's
17 materially different from the Seattle LID project;
18 correct?

19 A Yes, Mr. Edwards. A lot of the studies we
20 looked at we knew we weren't going to find exact
21 examples of what was being done for the variety of
22 different improvements within the LID area, but there
23 is some level of comparison here that we would have
24 felt, you know, reasonable to look at and see how the
25 market is reacting to.

1 Q Okay. I'm going to take you now to page 5
2 which is part of the executive summary of that study.
3 I'll note on the left there it talks about their goal
4 being to develop a new metric and specifically
5 measuring changes in retail sales specifically
6 reported sales for street level retail and restaurant
7 food service businesses. Do you see that?

8 A Yes.

9 Q And the retail involved in the LID is more
10 than just that; correct?

11 A Yes.

12 Q Okay. And then it goes on in describing their
13 methodology. They filtered out the tax data so that
14 they only got tax returns where the address filling
15 out the return was the physical address of the
16 particular store and concluded that as a result
17 they're, basically, only picking up local mom-and-pop
18 stores and independently operated franchises. Do you
19 see that?

20 A Yes.

21 Q And, again, that's not the only type of retail
22 that's involved in the Waterfront LID; correct?

23 A That's correct.

24 Q I'm going to move now to my next exhibit,
25 which is Exhibit 1. I'm going actually -- to try to

1 prevent some of this, Exhibits 1 through 5 are each
2 printouts of pages from the Seattle Waterfront
3 website. So I'm actually going to move to that
4 website instead to make this a little bit easier, but
5 Exhibit 1 is a printout of this page, the landing
6 page.

7 And I note that there are 12 different
8 projects along -- under this Explore Seattle
9 Waterfront that kind of default to the Alaskan Way
10 project. As we scroll down on this a little bit, we
11 see something that's all color coded. That's
12 reflecting specifically the Alaskan Way components of
13 what is otherwise outlined in the depiction here; is
14 that correct?

15 A Yes. Is this new or something that is in our
16 backup data?

17 Q This is on the seattlewaterfront.org web page
18 as we speak today. We're looking at it live right
19 now. I printed it out yesterday.

20 A Do you know what -- when was this compiled?
21 Do you know? Is it 2020 or is it --

22 Q I don't know specifically, but when we move to
23 the next one, we'll see that it's been there for a
24 while.

25 A Okay.

1 Q The main thing that I want to focus on here is
2 we've got 12 different projects that are linked here.
3 Only six of them, it's my understanding, are part of
4 the LID, and that's one of the things I want to
5 confirm with you.

6 The LID-specific ones would be the Park
7 Promenade plus bike path, Overlook Walk, the water --
8 Pier 58, Pike plus Pine Renaissance, Pioneer Square
9 and Union Street; is that correct?

10 A That's correct.

11 Q Okay. And I'll just note as you click on any
12 one of these, you get to -- taken to a page that's
13 specific to that particular project, and then you'll
14 see how the highlighted or the colored in area within
15 the boundaries changes to highlight the specific
16 project. Do you see that?

17 A Yes.

18 Q And down below, there's a kind of timeline of
19 status. I'm going to now go -- Exhibit 2 that we've
20 submitted is this page here, the Pike and Pine
21 Renaissance. And you'll notice how the outline has
22 stayed the same, but the areas that are highlighted
23 have changed. And now instead of there being anything
24 down on the Waterfront, you see these two little bars
25 coming up from the bottom of the image at Pike and

1 Pine Street. Do you see that?

2 A Yes.

3 Q And there's dotted lines, two different dotted
4 lines. One is straight and the other one has a lot of
5 curves in it that point towards the Waterfront. Is
6 this reflecting that the physical connection between
7 Pike and Pine and the Waterfront is not actually part
8 of the LID improvements, so there's nothing being done
9 between First Avenue and a little bit west of Western
10 with respect to the LID improvements?

11 A Well, the Overlook Walk creates new
12 connections to the Waterfront from the terminus area
13 of the Pike/Pine corridor. So I don't know what -- if
14 this study is anything that I looked at. I don't
15 remember this, but, like I said, there's a -- in the
16 addenda, there's a before and after map that depicts
17 the different access points that are derived from the
18 Overlook Walk connection to the Pike/Pine corridor
19 connection.

20 Q Okay. And what's the scope of the Pike/Pine
21 corridor streetscape improvements that are part of the
22 LID?

23 A Like I said, primarily, landscaping, providing
24 better sidewalk area --

25 Q I'm talking about the geographic limits of it.

1 It's starting at First Avenue and going east how far?

2 A I believe the LID goes to Ninth.

3 Q Okay. As we're looking at the next page of
4 the document, it's illustrating the Pike/Pine
5 Renaissance project. And I note that the lines don't
6 stop at Ninth Avenue. They go all the way to Minor
7 and Melrose, and then there's some dotted lines that
8 seem to go a little bit further and would connect Pike
9 and Pine. Do you see that?

10 A Yes.

11 Q Are you familiar with what's planned for east
12 of Ninth as part of the Pike/Pine Renaissance project?

13 A Probably a year or better ago I met with
14 the -- Steve Pearce who is the engineer on the
15 project, and he talked -- he talked some about
16 elements a little ways out off of Ninth, but they were
17 outside of the LID.

18 So, you know, I believe there are going to be
19 some additional landscaping and enhanced lighting in
20 the area between Ninth and, like, Minor, but there
21 again, it's outside and not part of the LID.

22 Q What is the budget for the Pike/Pine
23 Renaissance project?

24 A I don't recall specifically the dollar amount
25 for that specific improvement.

1 Q Do you recall how much of the cost of that is
2 going to be charged to the LID?

3 A Not off the top of my head, no.

4 Q Okay. This is now -- I'm clicking on the link
5 to portfolio, and you'll notice this document is dated
6 November of 2019, so, basically, contemporaneous with
7 when you finalized the LID study; correct?

8 A Yes. We delivered it to the City in November
9 of 2019.

10 Q Okay. And this refers to the Pike/Pine
11 Renaissance, Act One. Do you see that?

12 A Yes.

13 Q And under the budget it shows a total budget
14 of 37 to 40 million dollars?

15 A Okay.

16 Q Do you see that?

17 A Yes.

18 Q And it indicates that, basically, half of that
19 \$40 million budget, \$20 million is going to be charged
20 to the LID?

21 A Okay. Yes.

22 Q Can you help me understand why the -- a
23 portion of this project is being treated as part of
24 the LID and not the rest of the project while -- and
25 this is the one of six elements that is not physically

1 contiguous with all of the other elements?

2 A That is just how the LID components were
3 structured and given to me to value.

4 Q Did that impact your analysis of how different
5 parcels within the LID boundary were benefited by the
6 LID improvements?

7 A Well, again, we looked at all the six
8 components as one entity. So depending on where the
9 property was located within the context of the LID
10 boundary, the difference in value or benefit would
11 have varied depending on that location.

12 Q So are you suggesting to me that a property
13 that is adjacent to Pine Street but 2,000 feet away
14 from the Waterfront would be treated as the same
15 proximate distance to the improvements as say
16 something that is 400 feet from the Waterfront but --
17 and 400 feet from Pike and Pine?

18 A Well, again, it would depend on the property
19 type and what type of highest and best use it was.

20 Q But isn't it factually true that the market is
21 going to value proximity to Pine differently than it
22 values proximity to the Overlook or to a -- or to the
23 Promenade or any one of these different -- each of
24 these different features? They're not -- they're not
25 going to be viewed the same in the marketplace;

1 correct?

2 A Correct. I think if you're close to the
3 Overlook Walk and like on Second and Pine or First and
4 Pine and you're real close to those -- those
5 amenities, you would have a higher benefit than you
6 would say at Sixth and Pine being first -- being
7 further away from some major LID improvements.

8 MR. EDWARDS: And, Mr. Hearing
9 Examiner, I see that it's 5:15 now.

10 HEARING EXAMINER VANCIL: Yes.

11 MR. EDWARDS: And I probably have about
12 10 to 15 minutes more. I had been hopeful that I was
13 going to finish within your time frame, but it doesn't
14 look like I was successful on that.

15 HEARING EXAMINER VANCIL: That's not a
16 problem. Let's pick up there at 8:30 on June 25.

17 I do want to check with everyone who has been
18 with us today for the hearing date, how is the tech
19 going? And I don't need positive response. I need
20 negative. Please note for me and note for the record
21 any issues you've had with the tech.

22 We've been utilizing Zoom as a remote
23 platform, reception on your end. I note for the
24 record that Mr. Macaulay broke out about sometime
25 between 2:00 and 3:00 when he was being questioned by

1 Ms. Lin, and we did ask that the question be re-asked
2 and then answer provided.

3 Otherwise, things have seemed to have been
4 working from the end of the Hearing Examiner. Does
5 anybody else need to note anything to bring to my
6 attention for the record with regard to a remote
7 hearing forum?

8 MR. MOSES: Mr. Moses, I had trouble
9 downloading one of Ms. Lin's documents. I'm not sure
10 why. The others seemed to download just fine. Other
11 than that, a comment that staying in share screen mode
12 with the view of the speaker and the questioner on the
13 side is much preferable from my point of view anyway
14 to flipping back and forth and trying to deal with
15 documents separately. Having it all on one screen is
16 much easier to deal with.

17 HEARING EXAMINER VANCIL: Understood.
18 I'm not able to accommodate that as I need to be able
19 to visually evaluate both counsel and the witness, but
20 I do appreciate that we've had an opportunity to have
21 more share screen and see the documents when they're
22 being directly used. When they're not in use, I do
23 need them to be -- continue to be removed so we don't
24 have them occupying space when they're not under use.

25 And if you could work out the exhibit

1 accessibility with Ms. Lin, that would be appreciated.
2 I note that I've had some connectivity as well, but on
3 my end I print them out as part of the hard copy
4 record, so I can access them.

5 Anyone else have any issues with the tech for
6 the day?

7 MR. EDWARDS: Other than slowly opening
8 that one document, everything has been working fine
9 for me today. I did have the same observation you did
10 that there was that one point in time where the --
11 Ms. Lin and Mr. Macaulay were phasing out, but that
12 was very temporary.

13 HEARING EXAMINER VANCIL: All right.
14 Thank you, Mr. Edwards. And, yeah, there was delay.
15 Honestly, the delays I have seen are not any worse
16 than I've seen with counsel flipping through a
17 notebook or finding an exhibit from their associate
18 behind them or something along those lines. We seem
19 to be proceeding well enough.

20 We do want to note that I think we do have
21 some exhibits that you've got for the record. I guess
22 we'll wait for that and do it on the 25th?

23 MR. EDWARDS: Yeah. I was intending to
24 just move the admission of all of them at the end of
25 my cross-examination.

1 HEARING EXAMINER VANCIL: Let's do
2 that.

3 MR. EDWARDS: Okay.

4 HEARING EXAMINER VANCIL: And then I do
5 want to note just I'm not sure how everyone is going
6 to be proceeding. I do see some websites being
7 referenced here by Mr. Edwards. It seems like he's
8 got all the pages coming in as separate exhibits,
9 which is good.

10 I want to note that -- for anyone that may be
11 seeking to do this -- I've seen it in the past.
12 Again, I don't -- I haven't seen it here yet, but I
13 just want to warn everyone that providing a link to a
14 website or a database is not sufficient to make the
15 entire website or the entire database part of the
16 record.

17 If that's something you're seeking to do, you
18 need to bring it to my attention. Generally, even
19 large documents, unless they're, obviously, central to
20 the case, like Mr. Macaulay's report, I believe that
21 segments of large documents or databases that you're
22 actually referencing as part of your case will be
23 entered into the record. But, again, I just offer
24 that as a heads-up in case anybody was thinking they
25 might do that. I haven't had anybody attempt it yet.

1 With that we will conclude for the day, and I
2 appreciate everyone's participation. I think we're
3 making good progress. I appreciate the arguments that
4 I'm hearing, and the representation has been good. We
5 will reconvene June 25 at 8:30 a.m. Thank you.

6 (The proceedings concluded at
7 5:20 p.m.)

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STATE OF WASHINGTON
COUNTY OF KING

I, Nancy M. Kottenstette, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings on June 23, 2020, is true and accurate to the best of my knowledge, skill, and ability.

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 26th day of June, 2020.

Nancy M. Kottenstette
Nancy M. Kottenstette, RPR, C

