

Seattle Waterfront LID Assessment Hearing

Seattle LID Hearing

June 25, 2020



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SEATTLE WATERFRONT LID ASSESSMENT HEARING
BEFORE
HEARING EXAMINER RYAN VANCIL

REMOTE VIDEOCONFERENCE

June 25, 2020

King County, Washington
(All participants appeared via videoconference.)

8:40 a.m.

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

REPORTED REMOTELY FROM KITSAP COUNTY, WASHINGTON

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1 ALL PARTICIPANTS APPEARING VIA VIDEOCONFERENCE

2 THURSDAY, JUNE 25, 2020

3 8:44 A.M.

4 -o0o-

5
6 HEARING EXAMINER VANCIL: I'll call to order
7 this June 25, 2020, continuance of the Seattle
8 Waterfront LID Assessment Hearing.

9 Today, as planned, is the second day for
10 cross-examination by objectors of City witnesses.

11 We seem to have everybody on board and
12 connectivity has been established. Just as a reminder,
13 only the City and objectors planning to cross-examine
14 the City's witnesses will participate directly in the
15 hearing. Other objectors and the public may listen to
16 the hearing via a listening line that's established with
17 a connection on the front page of the Office of Hearing
18 Examiner's website under the hearing schedule for the
19 day. Callers are able to listen, but not participant in
20 the hearing.

21 This is established by a prehearing order,
22 at least two prehearing orders. And also orally in a
23 prehearing conference we had with objectors that were
24 cross-examining and it's been repeated at the outset of
25 each day. So I'm hopeful that everyone is clear on it.

1 We are not currently, for the remaining
2 days, able to broadcast to Seattle Channel. They had
3 limited capacity to broadcast all of our hearings. They
4 have other scheduling, which isn't surprising. But we
5 did our best to get what could be live-streamed by
6 Seattle Channel through to now.

7 All of the recordings of the live hearings
8 are recorded still by -- by Zoom and those are posted
9 within 24 to 48 hours following the date of the hearing.
10 And I also understand that we're -- we're working on
11 getting expedited transcripts for each day.

12 So everything should be coming out 24 to
13 48 hours after the actual day of the hearing. That's
14 quite an expedited schedule, frankly. And I did hear --
15 there was some concern expressed by at least one
16 participant that they were not getting streaming via
17 Seattle Channel. I want to assure you, we've never
18 broadcasted by Seattle Channel in the past. It was
19 merely done as a courtesy. You have full access to the
20 record within 24 to 48 hours. You can listen to it.

21 Everyone who needs to be directly
22 participating in the cross-examination as a
23 cross-examining objector or City or City witness is on
24 this Zoom participation directly.

25 If you are not directly participating and

1 you're just listening in or you're listening back to
2 this record and getting the news now that this is our
3 process, please look back at my earlier prehearing
4 orders. They lay out the process we're using and why
5 we've wound up where we are at this point.

6 Objectors who are not participating in
7 cross-examination have already presented their cases.
8 There will not be further opportunity to submit
9 additional information in a voluminous record where
10 objectors have been provided every opportunity to submit
11 the information and documentation they desire.

12 I look forward to additional opportunities
13 as we wrap things up for the cross-examining objectors.
14 But the other objectors at this time have had their
15 opportunity to present and participant.

16 I don't feel at this time it's necessary to
17 go back through our protocols for participating in the
18 hearing. I hope everyone has listened to those first
19 couple of days and read the protocols; that you're
20 familiar with them. If it becomes necessary for me to
21 remind you, I will during the hearing. Otherwise, I
22 think we're proceeding very well.

23 Looks like, I see, we have n attendance,
24 everyone I would expect for cross-examination. We left
25 off on Tuesday with Mr. Edwards was cross-examining for

1 Case No. 314 of Mr. Macaulay.

2 And are there -- before we return to that,
3 are there any procedural questions or issues that we
4 need to address from anybody before we return back to
5 the main part of the hearing? Any procedural questions
6 for the Examiner before we get back to the procedure of
7 the hearing?

8 Hearing none. It's your witness,
9 Mr. Edwards. Please continue. Thank you.

10 MR. EDWARDS: Thank you, Mr. Hearing
11 Examiner.

12

13 CROSS-EXAMINATION

14 BY MR. EDWARDS:

15 Q. When we concluded the day on Tuesday, we were
16 looking at Exhibit 3, which was a folio regarding the
17 Pike Pine Renaissance Act One project. I am going to --
18 recognizing that there are other examiners, I'm going to
19 do my best to finish up in ten minutes or less here. So
20 I'm going to move directly to Exhibit 4.

21 And I'm -- I can share screen here, hopefully,
22 to get to Exhibit 4, which is another document relating
23 to the Pike Pine Renaissance.

24 You know, note, it's reflected as "Sounding
25 board January 29, 2020."

1 This, again, is a document that is linked
2 through the -- the seattlewaterfront.org web page and
3 about the various elements of the Waterfront Seattle
4 Project.

5 Mr. Macaulay, are you familiar with this
6 document at all?

7 A. No. This document was done after my analysis.

8 Q. You are familiar with the Pike/Pine Street
9 improvements --

10 A. Yes.

11 Q. -- that are intended to be part of the LID
12 funded waterfront project element?

13 A. That's correct.

14 Q. I'd like to direct your attention now to page 8
15 of the -- of Exhibit 4, which reflects to be a depiction
16 of the scope of the Pike Pine Renaissance Act One
17 project.

18 Do you see that in front of you now?

19 A. Yes.

20 Q. And am I reading this correctly in seeing the
21 yellow solid lines reflecting components of that project
22 that are expected to be all or partly funded through the
23 Waterfront LID Assessment?

24 A. That appears to be accurate, yes.

25 Q. Okay. And then there are other elements of the

1 Pike Pine Renaissance Act One project that are going to
2 be funded by a variety of other funds and include both
3 elements and geographic scope that are outside of the --
4 the LID project?

5 A. That's correct.

6 Q. I'm going to move now to Exhibit 5. If I can
7 figure out how to get to Exhibit 5 without -- I'm going
8 to stop sharing for a second so I can get to my -- the
9 problem with having gone full screen, I can't figure out
10 how to get to my other documents here. If you could
11 bear with me just one second. This -- I am now --
12 there.

13 And you had indicated previously that at the
14 time that the -- that your final report was prepared
15 with -- in November of 2019, with an evaluation date of
16 October 1 of 2019, that some of the elements of the LID
17 before a 30 percent design review; is that correct?

18 A. Yes.

19 Q. And I'm going to show you now Exhibit 5.

20 Again, this document is available at the
21 seattlewaterfront.org and is linked directly from the
22 page reflecting Pike Pine Renaissance Act One project.

23 Do you recognize this as the 30 percent design
24 review dated April of 2020?

25 A. That's what it indicates, yes.

1 Q. And is that consistent with what your
2 understanding of the -- excuse me -- of the status of
3 the project was at the time of your report and
4 consistent with the time frame you were expecting the --
5 this component to reach 30 percent design review?

6 A. Yes. And the Seattle's 30 percent design review
7 is quite extensive. The 30 percent is, I think, a
8 little misleading. It's quite -- quite involved after
9 talking to the engineers and looking at the level of
10 detail they have gone through.

11 Q. And you'd also indicated that -- for all of
12 the -- I apologize. Let me turn off my phone so that
13 doesn't keep happening.

14 That -- even though 30 percent design review
15 were sufficiently far along the major elements that
16 design as far as were relevant for your work were
17 completed; is that correct?

18 A. That's correct.

19 Q. I'd like to now direct you to page 5 of this
20 document. A portion of the design reflecting the
21 protected bike lanes.

22 Do you see that?

23 A. Yes.

24 Q. As I read this, the dark green reflects existing
25 bike lanes and the -- and the dotted green lines reflect

1 future protected bike lanes that are contemplated.

2 A. Yes, I see that.

3 Q. All right. Most of the area depicted on this
4 map is outside of -- of the location of the -- area of
5 the Seattle Waterfront Project Improvement areas;
6 correct?

7 A. Yes.

8 Q. And the portion that is reflected here -- that
9 is reflecting areas within the Seattle LID Improvements
10 would be sections of Pike and Pine Street between First
11 and Ninth Avenues?

12 A. That's correct.

13 Q. And it reflects existing protected bike lanes on
14 Pike and Pine between First and Ninth Avenues?

15 A. Yes.

16 Q. And the -- the dotted green lines
17 showing anticipated future protected bike lanes along
18 Pike and Pine between First and Ninth Avenues, those are
19 not part of the Waterfront LID funded elements, are
20 they?

21 A. No.

22 Q. Going to move now to the -- to Exhibit C-17 of
23 the -- the City, which is the -- your final report. And
24 specifically I'm at page 26 of that.

25 Do you see that on your screen now?

1 A. Yes, I do.

2 Q. And this is a -- a page out of the -- the
3 spreadsheet summarizing the special benefit amounts
4 determined 30,000 feet, roughly, commercial properties
5 within the LID?

6 A. Yes.

7 Q. On the -- in the left corner, there is a column
8 LID map number. Do you see that?

9 A. Yes.

10 Q. All the numbers that are between letter E, is
11 that a reflection of which area within the LID that
12 parcels are located? It ties to those areas, A, B, C,
13 D, and E that we talked about on Tuesday; is that
14 correct?

15 A. Yes, as I mentioned on Tuesday. Also, they are
16 mainly used for references. We originally set up our --
17 our numbering system that way. So we just continued to
18 follow through as -- as the project progressed.

19 Q. And then the -- and the next column says "King
20 County property tax ID."

21 That's the tax identification parcel number used
22 by the King County Assessor for property tax purposes?

23 A. Yes.

24 Q. The next column, "county link, for them it
25 starts at "http and blue dot king co," and then its

1 column isn't wide enough here to show the rest of that.

2 But this is a link to the King County Assessor's
3 website that is the -- a page specific to the particular
4 parcel that we provided; is that correct?

5 A. Yes.

6 Q. And if we go along and look at these next
7 several columns, you can see on the screen all of those
8 reflect data from King County through that link; is that
9 correct?

10 A. Yes.

11 Q. Okay. Yeah, I -- I guess -- let me try one more
12 document -- actually, I'm going to try to share my
13 screen with the actual King County website.

14 Are you able to see up at the very top, the
15 particular web page, where it starts "blue dot king
16 county dot com, slash, assessor," et cetera. Or do I
17 need to -- I'm just not sure if my screen is actually
18 visible to you.

19 A. I see it says, "King County Park Department of
20 Assessments" at the top.

21 Q. If you go up above that in -- on the web page,
22 do you see where the website is at this address, or not?

23 A. No, I can't see that on this screen.

24 Q. Are you able to see it now, if I bring this
25 down?

1 HEARING EXAMINER VANCIL: Are you able to
2 highlight it, Mr. Edwards?

3 MR. EDWARDS: No, above the highlighted.
4 What I'm trying to establish is what we're looking at is
5 an example of the -- of the page that you're taken to
6 for a link for a particular parcel number.

7 HEARING EXAMINER VANCIL: You're looking for
8 something more than the line that starts "not secure
9 blue dot king county dot com," something --

10 MR. EDWARDS: Oh no, I'm sorry. That is the
11 exactly -- that's exactly what I'm looking for is the
12 "not secure blue king county dot com."

13 HEARING EXAMINER VANCIL: Are you able to
14 see that, Mr. Macaulay?

15 THE WITNESS: Not on this screen.

16 BY MR. EDWARDS:

17 Q. Are you able to see it now?

18 A. Yeah, I got you. Yes.

19 Q. Okay. And so am I correct in understanding that
20 the links that we were looking at on Exhibit 17, you
21 know, take you to, you know, this page for this
22 document, the equivalent of it, for each of the other
23 parcels.

24 A. Yes, that's -- we worked with King County to
25 derive the best way to link our information with -- with

1 theirs.

2 Q. And then if we go back then to, you know,
3 page 26 of Exhibit 17, I have, you know, highlighted
4 three parcels on that page. And our Exhibits 6, 7, and
5 8 are the King County Assessor web pages for those three
6 particular parcels.

7 If I -- so, again, here is -- and I have -- I'm
8 sorry.

9 Exhibit 6, I've highlighted the parcel number.
10 I'm now showing Exhibit 7 with a parcel number
11 highlighted. And Exhibit 8 with the parcel number
12 highlighted.

13 And I realize I went through that a little bit
14 quickly, but, you know, this -- do you recognize these
15 as pages from the King County website that contain
16 information that you utilized in developing your
17 before-and-after valuation calculations?

18 A. Yes.

19 MR. EDWARDS: At this point I have no
20 further questions of this witness, and I would like to
21 move the introduction of Exhibits 1 through 9 that we
22 discussed during this cross-examination.

23 HEARING EXAMINER VANCIL: Any objections
24 to -- or objection to Exhibits 1 through 9, for Case No.
25 314?

1 MR. FILIPINI: Mark Filipini for the City.
2 I do have an objection to -- a couple of objections to
3 Exhibits 1 through 5.

4 These were web pages from the Office of the
5 Waterfront current web pages, is my understanding. And
6 this witness -- foundation could not be weighed through
7 him. He doesn't work for that organization. He didn't
8 review those in preparation for his report.

9 In addition, that's the sort of information
10 that should have come in on direct. This particular
11 objector did not put on any testimony. Did submit a
12 written objection contesting the valuation as compared
13 to the King County Assessor amount.

14 But this is all new. And, again, it should
15 have come in from direct. I don't believe it's
16 responsive to anything that we raised in our direct last
17 week. So based on those -- those would be my two
18 objections to the introduction Exhibits 1 through 5.

19 HEARING EXAMINER VANCIL: Response,
20 Mr. Edwards?

21 MR. EDWARDS: Well, first of all, with
22 respect to responding to things that were raised on
23 direct, they certainly -- you know, the direct focused
24 very much on what were the various elements of the
25 Waterfront LID. Where were they located? How did they

1 relate to the various parcels that were assessed? And
2 there was testimony about each of those -- the
3 valuations being determined, relative to the location of
4 the -- of the elements.

5 So I think questions about what the elements
6 are, where they are located, are very directly tied to
7 the -- the direct examination.

8 And then with respect to the -- the
9 foundation as we -- we walked through -- you know, all
10 of this -- you know, if you look at -- I'm now on the
11 website for waterfront org about this particular
12 project, you will see that while the website is live --
13 specific dates of the various components. We talked
14 specifically about the fact that November was
15 contemporaneous with the timing of the -- of the
16 issuance of the initial assessment.

17 And Mr. Macaulay testified that the
18 component parts of the -- of this project were basically
19 set at that time in his testimony, particularly about
20 Exhibit 4 and 5 verified that information.

21 So I think the -- the -- the aspects of
22 this, with respect to the components of the -- the
23 waterfront project, in particular, Pike/Pine streetscape
24 improvements is both timely. Mr. Macaulay demonstrated
25 that he had knowledge of that. He used that knowledge

1 in his valuations. And I believe it linked to his
2 direct testimony.

3 HEARING EXAMINER VANCIL: All right. I'm
4 going to allow Exhibits 1 to 9 to be admitted. Although
5 1 to 5 are not necessarily produced by the witness.
6 Arguably, all of them touch on the subject matter which
7 he did discuss, which is his work for the assessment and
8 the LID.

9 I'm not going to stringently hold the
10 objectors to not relying on or specifically speaking to
11 only what the witness spoke to on direct; in part,
12 because objectors could have called these -- the
13 witnesses as direct. And I think there's lack of
14 clarity and procedure for how to do that in these
15 proceedings.

16 So while I won't allow an objector to come
17 in and just go free-for-all and go completely out of
18 line, what was asked on direct and slightly going over
19 the lines and not talking about an exact document that
20 was raised, particularly when Mr. Macaulay's testimony
21 was very high level on direct. And the cross-examining
22 objectors need an opportunity to drill down and get in
23 the details with him. I will allow these.

24 And so Exhibits 1 to 9 are admitted.

25 Thank you, Mr. Edwards.

1 MR. EDWARDS: Thank you, Mr. Hearing
2 Examiner.

3 HEARING EXAMINER VANCIL: Cross-examining
4 representative is Mr. Reuter.

5 Mr. Reuter, could you please state the case
6 numbers for which you're representing.

7 MR. REUTER: Yeah. Good morning. 133, 134,
8 135, 136, 333, 168, 218, 219, 220, and 353.

9 HEARING EXAMINER VANCIL: Thank you,
10 Mr. Reuter. Your witness.

11

12 CROSS-EXAMINATION

13 BY MR. REUTER:

14 Q. Good morning, Mr. Macaulay.

15 A. Good morning.

16 Q. I'm the lawyer for The Monaco, The Vintage,
17 Westlake Center, The Edgewater, the Pioneer Square
18 Hotel, the Thompson Hotel, 818 Stewart, 1918 Eighth,
19 1800 Ninth, and the Hilton on Sixth and University.

20 I would like to begin by asking some questions
21 about the Waterfront LID agreement. That -- I don't
22 know if that's already in, but it's my Exhibit CWF-30.
23 I -- I don't know if -- I don't think we need to share
24 that.

25 My question is, are you aware that not every

1 objector, not every property owner in the LID area
2 signed that agreement?

3 A. Yes, I'm aware of that.

4 Q. And that even those who did sign it, didn't
5 waive any right to challenge the special benefit?

6 A. I understand that.

7 Q. And so if somebody didn't sign it, they are not
8 bound by it at all. And if they did, they reserved
9 rights that were set out in that agreement?

10 A. Yes.

11 Q. Next, I want to ask you some questions about
12 this idea that part of your benefit lift calculation was
13 the opportunity for improved maintenance and security.

14 That was part of -- part of what you included in
15 your determination of what the lift percentage is;
16 correct?

17 A. Yes.

18 Q. Okay. Now, I'd like you to look at C-17, which
19 is your final benefit study. And in particular
20 page 118.

21 The first couple lines of that paragraph, the
22 first main paragraph, say that "These new waterfront
23 amenities will be designated as 'park land,' conveying
24 broader powers to the City regarding upkeep,
25 maintenance, and security of the vicinity. The

1 ordinance grants additional authority to the City,
2 through their employees, to maintain the integrity,
3 security, and cleanliness of these areas and eliminate
4 undesirable activities such as loitering."

5 That's the point you were making; correct? That
6 that's part of what the benefit was.

7 A. Yes. From the -- from the before situation
8 where it would only be considered transportation
9 corridor to the after situation --

10 Q. Just answer my question.

11 A. -- would have a better maintenance program.
12 We --

13 Q. Yeah.

14 A. -- that's a positive amenity.

15 Q. Yeah. Sure. And that positive amenity, that
16 benefit only applies -- or I should say it doesn't apply
17 to the Pike/Pine area, does it?

18 A. If it's not designated in the agreement, it
19 wouldn't.

20 Q. Yeah. So if you -- if you look at C-3. If you
21 look at C-3.

22 Do you have C-3 in front of you? Or do you have
23 it available to you? I'm having trouble getting it
24 shared here? Mr. Macaulay?

25 A. Yeah, I'm trying to pull it up here.

1 MR. FILIPINI: Yeah, if I could just have a
2 few seconds, I can find a paper copy for him.

3 THE WITNESS: There we go.

4 MR. EDWARDS: Mr. Reuter, this is Scott
5 Edwards. I have a copy if you would like me to share
6 the screen for everybody.

7 MR. REUTER: Would you? I don't know what
8 I'm doing wrong here.

9 THE WITNESS: I've got a hard copy in front
10 of me, Mr. Reuter.

11 BY MR. REUTER:

12 Q. Okay. So if you look at page 33 of the
13 agreement or of the exhibit, that's the ordinance;
14 correct? Ordinance 125761.

15 A. Yeah. Page 33 starts with -- it's an extension
16 of prior discussions. So it starts --

17 Q. I'm looking at paragraph 4.

18 A. Okay. Got it.

19 Q. I'm sorry. -- okay. I got it.

20 So paragraph 4 talks about where this
21 maintenance and security really applies, in that it's --
22 which where the action of this LID is; right?

23 It defines the area as the waterfront park and
24 public spaces shown in Attachment E.

25 Do you see that?

1 A. Yes.

2 Q. The scope of the future management agreement
3 shall be the waterfront park and public spaces shown in
4 E.

5 So if you scroll down to page 38, that's
6 Exhibit E. This is where the real action of the LID
7 improvements is. And that's where the -- that's the
8 only place that this increased -- this idea of improved
9 maintenance and security applies; correct?

10 A. That's correct.

11 Q. And so for the areas up Pike and Pine and in
12 Pioneer Square, nothing changes; correct?

13 The City is still in charge of security, for
14 instance, in those areas.

15 A. As I recall, in the outline --

16 Q. Is that correct, Mr. Macaulay?

17 A. Well, I'm trying to remember -- recalling the
18 other documents I've read based on this --

19 Q. Okay. Well -- so let me ask you this.

20 Are the Pike/Pine LID areas shown in pink on
21 page 38?

22 A. No, based on this map, you seem to be correct.

23 Q. Okay. And the same with the Pioneer Square
24 area?

25 A. Yes.

1 Q. And the truth of it is that even these pink
2 areas, this improvement -- this idea or quasi commitment
3 to improve maintenance and security. That's not a
4 guarantee, is it?

5 A. If the LID is formed, those management functions
6 will take place.

7 Q. Okay. And maybe this is a question for
8 Mr. Foster. Didn't you hear him say that none of this
9 is a guarantee. For instance, if the City were to run
10 out of money or determine there were more important
11 priorities or more important parts of town, that they
12 could -- they could -- the City could choose not to even
13 do this pink part?

14 A. I don't know that.

15 Q. Okay. Let's switch subjects here.

16 Do you know where 1800 Ninth is?

17 A. Roughly, Ninth and -- I can't remember the
18 cross-street.

19 Q. Okay. I'd like to show to you on a map.

20 Do you know where -- do you know where 818
21 Stewart is?

22 A. Well, it would be up in that same vicinity.

23 Q. Right. And then 1918 Eighth, those buildings
24 are right next to each other, aren't they?

25 A. Yes.

1 Q. And you have an idea where The Edgewater is?

2 A. Yes.

3 Q. And you know where The Vintage and The Monaco
4 are on Spring?

5 A. Yeah. The Monaco is on Fourth, yes.

6 Q. And The Vintage is on Fifth and Spring?

7 A. Yes.

8 Q. Hilton is on Sixth and University?

9 A. Yes.

10 Q. And the Pioneer Square Hotel is on Yesler;
11 correct?

12 A. Yes.

13 Q. Okay. I've got in front of you -- do you see
14 that map?

15 A. Yes.

16 Q. Do you recognize this as a map of Downtown
17 Seattle?

18 A. Yes.

19 Q. And do you agree it encompasses much, if not
20 all, of the LID area?

21 A. Yes.

22 Q. And do you see where I've put an E?

23 A. Yes.

24 Q. That's The Edgewater; do you agree?

25 A. Yes.

1 Q. And these areas that have the address numbers on
2 them: 1918, 818, 1800?

3 A. Yes.

4 Q. That's where those buildings are?

5 A. Yes.

6 Q. The Thompson Hotel is here.

7 Can you see my cursor moving?

8 A. Yes.

9 Q. And the Westlake Center, that's where that is?

10 A. Yes.

11 Q. And the Hilton on Sixth and University is here?

12 A. Yes.

13 Q. And The Vintage and The Monaco are shown as
14 well?

15 A. Yeah. Correct.

16 Q. Okay. How far is it from 818 or from 1800 down
17 to the -- to the Overlook Walk area, or the waterfront
18 park?

19 A. It's about eight blocks.

20 Q. Yeah. Do you know how many miles it is?

21 A. Eight blocks is pretty close to a mile.

22 Q. So how far is it? Oh, eight blocks is about a
23 mile you say?

24 A. Correct.

25 Q. So do you -- how far do you think the Hilton and

1 The Vintage are?

2 A. The Hilton is a little bit -- the Hilton -- they
3 look similar distance.

4 Q. Okay. And The Edgewater, you think that's
5 probably about a mile as well?

6 A. Probably a little less.

7 Q. Okay. Do you know how far it is from The
8 Edgewater down to Pioneer Square?

9 A. Not --

10 Q. Let's call it Yesler.

11 A. It depends on -- yeah, it would be, one, two --
12 you would be approximately eight miles from the Overlook
13 Walk area -- excuse me, eight blocks.

14 Q. So you think it's a mile and a half from The
15 Edgewater down to the -- the Yesler?

16 A. From Yesler, it looks like about eight blocks.

17 Q. I'm talking about from The Edgewater to Yesler.

18 A. Oh. Yeah, I couldn't tell -- probably, probably
19 a couple miles --

20 Q. Okay.

21 A. -- city blocks.

22 Q. Let's look back at C-17. And in particular,
23 page 107. This is the LID boundary with some graphics
24 on it; correct?

25 A. Yes.

1 Q. The -- the pink or -- or orange, those are --
2 those are the three areas; correct?

3 A. Yes.

4 Q. Pine, the waterfront, and what I call Pioneer
5 Square down at the bottom.

6 A. Correct.

7 Q. Correct?

8 A. Yes.

9 Q. Okay. So -- so what we're looking at here is
10 really a three-part project looked at in this way. The
11 Pike/Pine, the waterfront, and Yesler, or Pioneer
12 Square. Right?

13 A. We looked at the project as one entity.

14 Q. Yeah. So I thought you would say that. And --
15 and I realize you're sort of saddled with the scope of
16 your assignment. We've heard you say that a hundred
17 times.

18 The idea of looking at this as one entity, you
19 know, I guess -- those are the cards you were dealt
20 here. But -- but that's not a USPAP thing, is it?
21 That's not a requirement by USPAP that you consider all
22 this as one?

23 A. No.

24 Q. And, in fact, if it isn't a continuous -- one
25 project, the City Council has to approve the idea that

1 it's all one; right?

2 A. That would be more of a legal question.

3 Q. Yeah. Yeah. So that -- that, in fact, is RCW
4 35.43. And it's not a continuous project; is it?

5 A. No.

6 Q. Yeah. Okay. So -- so let me ask you, if -- if
7 you -- if you -- if you had no Overlook Walk or
8 Promenade, if that wasn't part of this, there's no way
9 you would say The Edgewater up here in the little
10 forgotten corner would benefit from improvements down in
11 Pioneer Square; you would never say that, would you?

12 A. Well, again, it would change, obviously, the
13 whole scope of my assignment.

14 Q. Yeah, I know. I'm asking you a hypothetical.

15 A. Yeah.

16 Q. If there was no overlook or Promenade, you would
17 never say that The Edgewater benefits from streetscape
18 improvements in Pioneer Square, would you?

19 A. They -- they may not. Again, it would be a
20 different valuation, probably.

21 Q. And similarly, these buildings up here that I
22 called the numbered buildings 818, 1800, and 1918, you
23 would never say that they benefit from work down in the
24 Pioneer Square area?

25 A. Well, again, that's not what I did for purposes

1 of my analysis.

2 Q. Yeah, I know that. I'm asking you a
3 hypothetical.

4 A. It's possible. Again, it would be a
5 different -- different appraisal problem.

6 Q. Yeah. And the same with the Pioneer Square
7 Hotel down on Yesler, you would never say without
8 this -- without where -- this area where the real action
9 is down here on waterfront, the Pioneer Square Hotel
10 would never benefit from a bunch of streetscape
11 improvements up by the Westlake Center; you wouldn't
12 think that, would you?

13 A. Yeah, it would be a different appraisal problem.

14 Q. But you -- would you ever think that? Would you
15 ever -- can you imagine you sitting here testifying that
16 without the Overlook Walk and Promenade that Denny
17 Triangle properties benefit from streetscape
18 improvements in Pioneer Square, a value lift benefit?

19 A. I wasn't looking at it as an overall entity.
20 The probability of that would be low, yes.

21 Q. Yeah. Okay. So let me ask it another way. If
22 you -- if you stretched the Pike/Pine improvements up to
23 the CHOP. If you -- if you put new plants and a couple
24 trees and maybe a fancy streetlight or two up -- further
25 up Pike, at some point there's -- there is no benefit

1 lift in this -- in -- in this LID, right?

2 If you just kept putting new planters up Pike,
3 would -- would there be a point where the LID benefit
4 percentage fell to zero --

5 A. (Audio disruption).

6 Q. -- new bushes on the street?

7 A. That would just be a different appraisal
8 problem. I would have to look at.

9 Q. Yeah, but I'm asking you a hypothetical. You're
10 in the witness chair. You're the expert.

11 A. Well, are you saying that --

12 Q. You said --

13 A. -- none of --

14 Q. I know you said you drew a line at Denny for
15 some reason after which the benefit fell to zero.

16 But my question is, if you kept planting new
17 bushes and a tree or two up Pike Street and you just
18 kept going, at some point you couldn't tie a benefit --
19 a -- a value lift to those extra trees. You couldn't
20 include them in this LID, could you? There would be --

21 A. I don't know.

22 Q. You could go all the way -- all the way up the
23 CHOP and say those businesses are -- are benefitting
24 from this LID because of a few bushes in the street now?

25 Isn't there a place where it would fall to zero,

1 even though you got some new trees?

2 A. Again, it would depend on the scope of the
3 assignment and what all was being done.

4 Q. The point is that the real benefit is the
5 waterfront, the work done in the waterfront area, the
6 real action part of this three-part project is down here
7 on the water. And the further away you get, the -- the
8 less benefit lift that you could justify; isn't that
9 true?

10 A. Looking at the -- at the project as an entity as
11 we did, yes. The further you get away from the amenity
12 of the LID, the lower the benefit amount.

13 Q. But the amenity is the waterfront improvement
14 part of it, isn't it?

15 A. Well, the amenities, the connectivity that all
16 of the elements of the project create, the waterfront
17 being the most important of those -- of those amenities.

18 Q. If you would return to my map. Exhibit 29, I
19 believe.

20 A. Are you going to go there? Do you want me to
21 find that?

22 Q. Well, I'm going to try to get it back on my
23 screen here. Let's go to -- back to C-17.

24 I want to ask you if you know the benefit lift
25 amounts that you assigned to the numbered buildings.

1 Do you happen to know that?

2 A. The -- the office building, you're referring --

3 Q. Yeah, if you look at the bottom of the screen in
4 front of you. Do you see the spreadsheet?

5 A. Yeah, the print -- the print is very small.

6 Q. Okay. How is that?

7 A. Yeah, that's better. Thanks.

8 Q. If you look at 14101, this line, 818 Stewart and
9 142, 1918 Eighth. These are both office towers;
10 correct?

11 A. Yes.

12 Q. And the benefit lift for 818 is 20 percent.
13 Can you follow that across the screen?

14 A. Yes.

15 Q. And for 1918 it's -- for 1800 Ninth, it's
16 15 percent? Do you see that?

17 A. Yes.

18 Q. No. It's 10 percent for 1918. 1918 is the
19 third --

20 A. Yeah, it's between -- that project was
21 interesting, because it was broken into three
22 separate --

23 Q. Let me ask you a question, and then you can
24 answer my questions.

25 The third line up is 1918. That's 10 percent.

1 Okay. You with me?

2 A. Yes.

3 Q. All right. The next page, if you look at D-169,
4 that is 1800 Ninth; do you see that?

5 A. Yes.

6 Q. And then I'm just trying to scroll across here
7 without success.

8 The benefit lift for that building -- this is
9 kind of dramatic. This is a dramatic moment in my
10 cross-examination -- is 15 percent, do you see that?

11 A. Yes.

12 Q. Okay. Okay. Now, these buildings are right
13 next to each other; right?

14 A. Yes.

15 Q. They are the exact same distance down to the
16 waterfront?

17 A. Yes.

18 Q. But you're drawing a distinction between --
19 of -- of 5/100th of a percent in the building lift. But
20 the buildings are right next to each other?

21 A. Well, I think you need to look at the dollar
22 amount of the -- they're fairly similar. The largest
23 building has a higher benefit than the smaller
24 buildings.

25 Q. And so that's part of it? How big the building

1 is? I mean, I get that that would affect the value of
2 the respected buildings.

3 A. Well, it reflects of the value of the difference
4 as well, so the percentage changes. It's just simply a
5 function of that for informational purposes. So when
6 you're looking at that kind of -- relative to the
7 significant difference in size of a couple of those
8 buildings, you're going to see a difference.

9 Q. I don't understand that at all. To me, I get
10 why the value -- the before value would be different
11 between properties, but for 5/100th of a percentage, I
12 don't understand how you can draw that fine of a
13 distinction?

14 A. Well, they are just roughly proportionate.
15 We're looking at a dollar figure from the before and
16 after, and the percentage change is the result of that.

17 Q. So is there -- is there?

18 A. I'm trying to say -- I would say that's roughly
19 proportionate, and it complies with the State statutes.

20 Q. Okay. Aren't we trying to measure what -- how
21 much these property owners are gaining from the LID
22 improvements?

23 A. Exactly. It's -- it's fairly small, relative to
24 their overall property value. And that small of
25 difference is roughly proportionate even because they

1 are right next to --

2 Q. And how?

3 A. -- they're not going to be exact --

4 Q. How much bigger do you have to be as a building
5 to get 5/100th of a percent more of a benefit increase?
6 Is that five floors or 3,000 square feet? Or how does
7 that work?

8 A. Well, again, just looking at it on a
9 parcel-by-parcel basis.

10 Q. But what are you looking at --

11 HEARING EXAMINER VANCIL: Mr. Reuter, please
12 let the witness answer the questions when you ask him;
13 you're cutting him off.

14 Mr. Reuter, please let the witness answer
15 the question when you've asked it; you're cutting him
16 off.

17 Please state your question and Mr. Macaulay
18 will provide a response.

19 BY MR. REUTER:

20 Q. How -- how many. You say it's parcel by parcel,
21 but for these three parcels, what are you talking about?
22 How is the -- what -- what are you measuring that
23 justifies a 5/100th of a percent difference in benefit
24 lift?

25 A. Well, in this instance, the 918 building is

1 substantially larger. It's much more valuable than the
2 other ones. So just the result of the before-and-after
3 value difference reflects a slightly lower percentage
4 change than the other two buildings that -- that are --
5 are several hundred million dollars worth less in value.

6 So just the -- looking at if you purely look at
7 the percentage change, they are roughly proportionate.
8 But if you look at the dollar -- dollar differences
9 there's a difference there. We're just recognizing that
10 there are office buildings that are far more removed
11 from the main elements of the LID and the benefit lift.

12 Q. But distance doesn't matter with these three
13 buildings, because they are right next to each other and
14 they are the exact same distance from all these other
15 improvements.

16 So there's something about these buildings
17 that's causing you to draw an incredibly fine
18 distinction between the benefit amount. And I want you
19 to tell me what that is.

20 A. Well, again, it would be based on the -- on the
21 number of floors in the building, the size of the
22 building.

23 Q. How many floors make a difference?

24 A. It would just depend on parcel by parcel. I
25 look at each one differently. And if one has more

1 square feet, a hundred thousand more square feet or
2 whatever it is. It's just on a parcel-by-parcel basis.

3 Q. So that's the same -- when you say that, "parcel
4 by parcel," you're just -- that's just like your code
5 for saying this is a judgment call that I make based on
6 my 30 years of experience. Right?

7 HEARING EXAMINER VANCIL: Mr. Reuter --
8 Mr. Reuter, please save your argument for the end. Ask
9 your questions. If you don't like the answers you're
10 getting, you can ask it again. I understand sometimes
11 you're not getting the answer you expect, or maybe you
12 can ask it a different way.

13 Please save your argument for later. You
14 will have an opportunity to do that at a later time.

15 MR. REUTER: Your Honor, this is
16 cross-examination, of course I'm arguing.

17 HEARING EXAMINER VANCIL: Mr. Reuter, I
18 understand what cross-examination is. Please stick to
19 the lines and ask your questions. You will have an
20 opportunity to do argument at the end. And don't argue
21 with me.

22 BY MR. REUTER:

23 Q. Is there some math to these distinctions or is
24 this a judgment call?

25 A. When one building is significantly larger than

1 another, it is going to create a higher -- higher value.
2 And -- and most probably when you are looking at and
3 trying to be consistent with how you're looking at
4 similar properties, it's going to create a higher
5 benefit.

6 And that change in benefit for -- for a larger
7 building might be slightly different when the percentage
8 change might be slightly different than a similarly
9 situated building. But under the State statutes, they
10 have to be roughly proportionate. And I would say that
11 small of difference certainly justifies a roughly
12 proportionate difference.

13 Q. And so did you do that with the hotels too? The
14 taller the building is, the more benefit that they got?

15 A. Well, the hotels then are a different valuation
16 problem, and they are looked at as they are reflected in
17 the market.

18 Q. And what about other office buildings, they
19 all -- the park benefit lift is not just the -- not just
20 the benefit from the improvements, but its how big and
21 valuable the building is?

22 A. Certainly. You have to look at the -- at the
23 whole bundle of rights of the property you're
24 appraising.

25 Q. And so if you look at The Vintage and The

1 Monaco, The Vintage gets a .99 benefit lift. It is on
2 Fifth and Spring. The Monaco gets a 1 percent.

3 Do you agree, or do we need to look at those
4 documents?

5 A. No, I think you're right.

6 Q. And -- and so those -- those are -- there's a
7 one -- those are the same distance from the Pike/Pine
8 improvements; right?

9 A. They are a block apart, or whatever, they are
10 fairly close.

11 Q. But from Pike Street, they are the same
12 distance?

13 A. Correct.

14 Q. But the only proximity difference is that Monaco
15 is one block closer to the water?

16 A. Correct.

17 Q. And doesn't that explain why The Monaco gets a
18 1/100th of a percent more of benefit lift?

19 A. That's just purely a calculation of the before
20 and after. It is just more of a -- the way the math
21 worked out on that, the dollar figures would be
22 different. And they would -- they would reflect the
23 elements of the property. The physical elements of the
24 property, the size of the rooms, et cetera in the
25 before, and then again in the after.

1 Q. Proximity doesn't explain that?

2 A. Well, they are very similarly situated in
3 proximity to the waterfront. I think what we're saying
4 is the market would look at them fairly similarly and
5 the dollar amounts are different.

6 Q. Does the one block difference -- Monaco is one
7 block closer to the water. Does that explain the
8 1/100th of a percent value benefit difference?

9 A. No. It's just simply the 1/100th of a percent
10 is the result of difference in value, and it --

11 Q. So it isn't --

12 A. -- it's not exactly one percent. It was just
13 our analysis, and that's what it came out at.

14 And when we're reconciling, is that roughly
15 proportionate to a hotel a block away? We're saying
16 yes. And then the dollar figures which is what we're
17 estimating, are reflecting that as well. They are
18 reflecting that -- that difference.

19 Q. Sure. I get the value part.

20 But -- so are you saying that the 1/100th of a
21 percent difference in benefit lift is in no part
22 explained by proximity to the waterfront?

23 A. It's just the mathematical difference between
24 the before and after.

25 Q. You prepared worksheets for each of my client

1 properties; correct?

2 A. That's correct.

3 Q. And those -- those -- those -- those worksheets
4 are Exhibits 16 through 25; correct?

5 A. I believe so, yes.

6 Q. Okay. Well, I need you to be sure, because I
7 need to get them admitted into evidence. If I need to
8 show them to you, I'm happy to do that.

9 Do I need to do that? I guess I'm not happy to
10 do it, but I would --

11 A. I could try to pull them up here too,
12 Mr. Reuter, would that save you time?

13 Q. I was hoping to avoid --

14 A. I'm not sure I'm any more good or accurate of
15 this than you, though.

16 What happened there Mark? I'm not having luck
17 pulling that up.

18 MR. FILIPINI: If it helps, for the record,
19 I could stipulate on behalf of the City that 16 through
20 25 are the worksheets that Mr. Macaulay prepared for
21 Todd's clients.

22 MR. REUTER: That's appreciated, Mark.

23 BY MR. EDWARDS:

24 Q. Those worksheets contain your calculations;
25 correct?

1 A. That's correct.

2 Q. And -- and -- and you used the same methodology
3 for preparing them that you did for all the other
4 properties; right?

5 A. That's correct.

6 Q. Okay. And so if I could show you -- I've shown
7 you Exhibit 26.

8 This is a six-page table prepared by John
9 Gordon. Okay. It contains two basic columns. There's
10 one for each -- each of several properties. This, The
11 Edgewater, the Hilton, The Monaco, The Vintage and the
12 Thompson Sequel Apartments; do you see that?

13 A. Yes.

14 Q. And -- and do you agree that the ABS final
15 column are the numbers from your worksheets?

16 A. They appear accurate, yes.

17 Q. And -- and Ms. Lin went through this a little
18 more elegantly yesterday than I am doing, but because I
19 don't have the Excel spreadsheet to change the numbers
20 like she did.

21 But if -- if the average room rate -- and we're
22 just using The Edgewater here, was 350 in your study,
23 but 258 in the Kidder Matthews number -- and even using
24 the same -- your benefit lift numbers, this is the
25 value, the levy LID value difference. Do you see that

1 at the bottom?

2 A. Yes.

3 Q. It's really changing the room rate result in
4 that difference in -- in assessment?

5 A. Yes.

6 Q. You are using a lower benefit number?

7 A. Yes, if you change the input, it will change the
8 value difference.

9 Q. And the same with each of these pages. If the
10 room rate is actually 236, the -- the levy LID goes from
11 397 to 313; correct?

12 A. Correct.

13 Q. Okay. And the same with each of these pages?

14 A. Yes, if you change the input on the room rate,
15 the -- the difference will change.

16 Q. Now, if -- these numbers exclude personal
17 property?

18 I understood you to testify yesterday that your
19 numbers actual include personal property, but only for
20 the hotels; is that right?

21 A. That's how they are bought -- typically bought
22 and sold in the market.

23 Q. Yeah, I heard you say that.

24 But I'm looking at page 197 of Exhibit C-17.

25 And in there, there's a paragraph 30. This is -- this

1 is your final report. It says, quote, "Appraisal
2 applies to the land and building improvements only."

3 Are you aware of that paragraph? Or can you
4 explain that? If -- if that actually isn't what you did
5 for the hotels.

6 A. Well, the hotels function differently in the
7 market, and that's what we're reflecting is the market.
8 And so they may include some personal -- personal
9 property elements that aren't typical of -- of a normal
10 entity in a market.

11 Q. Okay. So your statement in your report on which
12 other people perhaps relied, isn't true with respect to
13 the hotels; right? You did it differently for them.

14 A. Well, the -- well, our job is to reflect the
15 market, and that's how the market functions when --

16 Q. Okay. I'm just pointing out that your own
17 report says that this appraisal applies to the land and
18 building improvements only.

19 HEARING EXAMINER VANCIL: Is there a
20 question there, Mr. Reuter?

21 MR. REUTER: What? Sorry?

22 HEARING EXAMINER VANCIL: Do you have a
23 question for the witness?

24 BY MR. REUTER:

25 Q. Well, I -- I wanted -- do you acknowledge that,

1 Mr. Macaulay?

2 A. Yes. And the hotels are looked at in market in
3 a slightly different manner.

4 Q. Okay. So Exhibit 33. Exhibit -- I'm sorry,
5 Exhibit 27 now in front of you. This -- the current --
6 you will see the current value numbers have changed
7 in -- in the Kidder Matthews side because they actually
8 included the personal property.

9 Can you see that?

10 A. Where are you showing personal property,
11 Mr. Reuter?

12 Q. Well, I'm asking you, do you see if the current
13 value number -- the current value number, for instance,
14 for The Monaco changes if you include a personal
15 property?

16 A. Okay.

17 Q. That's what Exhibit 27 is.

18 A. Okay.

19 Q. So these are your ABS numbers with a change in
20 the KM numbers. And do you -- do you recognize that if
21 you then included the -- the personal property, the
22 value and hence the levy lift number would be different?

23 A. Yes.

24 Q. Okay. And that's for each of these same --
25 these same properties? Edgewater, Hilton, Monaco,

1 Vintage, Thompson Hotel, and Sequel Apartments.

2 MR. FILIPINI: And if I could, Mr. Hearing
3 Examiner, I would just object to this line of
4 questioning as this, you know, is not a document that
5 Mr. Macaulay has generated or seen before. It looks
6 like it contains argument, which I understand from --
7 from these property owners. And under the -- I don't
8 think he can lay an appropriate foundation for it.

9 But, in addition, under the scheduling
10 order, we understood that these were the sort of pieces
11 that would come in either on direct examination -- and
12 there were charts from Mr. Gordon introduced on direct
13 examination of him by these property owners, or on
14 July 7th so we could have until July 14th to answer.

15 HEARING EXAMINER VANCIL: Mr. Reuter?

16 MR. REUTER: Well, first the KM numbers are
17 in the KM appraisal review and -- and/or the restricted
18 appraisal.

19 Second, with the regard to Exhibit 27,
20 Mr. Macaulay surprised everybody in his direct testimony
21 when he said his numbers include the personal property.

22 So I need to rebut that. I need to
23 cross-examine him on that, and I need to get this
24 evidence into the record.

25 I can do that either by admitting it here,

1 or if Mr. Filipini is correct, I can just put them in as
2 part of my closing -- closing brief, or argue it.

3 But he's raised this issue of -- of the
4 difference in including and excluding personal property.
5 He's attacked Mr. Gordon on direct. And I've got to
6 have some way of responding to that, and that's what
7 this Table 27 does.

8 HEARING EXAMINER VANCIL: The normal course
9 of these hearings it's common in -- as a matter of
10 cross-examination for a party to bring in an exhibit as
11 part of their cross-examination when it relates to
12 testimony derived from the witness to begin with.

13 In this case, we also didn't have the
14 opportunity for objectors to directly examine the
15 witness, because it simply would have been a procedural
16 nightmare for Mr. Macaulay to appear with every objector
17 on direct.

18 So, in this case, we do need to have a more
19 liberal allowance for objectors essentially to ask the
20 questions they need to of Mr. Macaulay as long as it's
21 in the bounds of Mr. Macaulay's testimony and expertise.

22 And I find that with regard to the line of
23 questioning here, that that's where we are and I'll
24 overrule the objection.

25 I recognize that there could be a point

1 where somebody is taking us too far afield from what was
2 on direct, so this is not a bright line rule, but for
3 this item, it's certainly within the bounds of something
4 that Mr. Macaulay can't answer.

5 If he gets too far out of it; I think we had
6 an example of that yesterday where the document was not
7 particularly legible. We didn't understand where it
8 came from, and because it wasn't even able to be shown;
9 that that, I think, is a limit that we can turn to in
10 his example that would not be allowed and would be
11 encouraged to come in through post-hearing briefing.

12 In this case, it's essentially almost an
13 illustrative exhibit that helps us in the conversation
14 so Mr. Macaulay can actually follow along the questions
15 being asked by the representative.

16 MR. REUTER: Thank you, Your Honor.

17 BY MR. REUTER:

18 Q. Switching subjects, Mr. Macaulay. I'm certain
19 you've had communication with representatives from the
20 City of Seattle about this project; true?

21 A. Yes.

22 Q. And I'm sure that includes Mr. Filipini and
23 other lawyers. So I'm not asking you about any legal
24 advice that might be protected by the attorney-client
25 privilege. But here's my question.

1 Has any City representative or official asked
2 you to change any of your work with respect to the
3 boundary -- the boundary of the LID?

4 A. No. I mean, obviously, the boundaries were
5 discussed through -- through the process of me doing my
6 work. But I was never, ever asked, nor would I ever,
7 change the boundaries based on some instructions the
8 City or any city in the number of years I've been doing
9 this.

10 Q. So you're saying that -- that -- it sounded to
11 me like you were -- you were a slave to the scope of
12 your assignment.

13 If the City changed the scope of the assignment
14 to stretch the boundaries, then you would do that;
15 right?

16 A. Well, I recommend boundaries. I don't set the
17 boundaries. So it's -- the City would recommend the
18 boundaries.

19 Q. So you recommended these current boundaries?

20 A. That's correct.

21 Q. And did -- did -- did you recommend any
22 different boundary before this boundary?

23 A. No. There was a feasibility study that was done
24 that had a study area, and then it was more refined when
25 we did the formation study, and that's what derived this

1 recommended boundary.

2 Q. Did that derive -- did that change derive from
3 input or direction from anyone other than ABS?

4 A. Well, we were -- we were trying to ascertain how
5 the market would -- would react to the elements of the
6 LID. So we'd be looking at, you know, rents and sales
7 and confirmation of sales and discussions with buyers
8 and sellers in the market.

9 Q. And that's ABS work?

10 A. Yeah.

11 Q. I'm talking about people outside of ABS.

12 Did anybody lean on you, second-guess you about
13 the boundaries?

14 A. No, they were totally my -- my decision to make
15 on my interpretation of the market.

16 Q. And -- and same questions with regard to the
17 lift benefit percentage. Point two or the one point two
18 or those numbers, did you get any -- any input or
19 second-guessing from anybody at the City?

20 A. Those -- those point two, point one, one
21 percent, those are just simply the difference between
22 the before-and-after values. We got no input to change
23 any benefit estimate to look at one area different than
24 the other. It was totally --

25 Q. Yeah, I understand how you get the percentage.

1 But I guess it's -- the difference, the after value.
2 You're saying that at no time did somebody from the City
3 encourage you, pressure you, discuss with you, altering
4 those numbers to result in a different benefit lift than
5 what you concluded in your final study?

6 A. Absolutely not, no.

7 Q. Have you been a party to any discussion about
8 the possibility that the City will not complete the LID
9 projects due to a lack of money?

10 A. No.

11 Q. No?

12 A. I'm not aware of that, no.

13 Q. And your understanding that if there are
14 portions of the proposed LID improvements that are
15 ultimately not built, that -- that the -- that the --
16 the -- the -- that the amount of money that would have
17 been spent on that will -- will be dropped out of the
18 assessment and the City will -- will absorb that?

19 A. Well, yeah, the amount of the assessment was
20 capped.

21 Q. Yeah, I'm sorry. I didn't ask a clear question.

22 If the -- if this process we're in now, this
23 litigation, reduces the amount -- the ultimate decision
24 from the City Council or the Hearing Examiner or the
25 Court's results in a reduced assessment amount for the

1 property owners, the City is -- is going to pay up to
2 the 160 million, whatever the assessment difference is.

3 Does that make sense?

4 A. Yes.

5 Q. That's true; isn't it? Is that your
6 understanding?

7 A. I don't know. I haven't been privy to any of
8 that kind of discussion.

9 Q. I want to talk about the Thompson Hotel.
10 When you were doing your parcel-by-parcel
11 appraisal, review, whatever you call it, of the
12 Thompson, did you consider the opening of the charter
13 hotel as having an effect on the value of the Thompson?

14 A. The Charter Hotel? I'm not following your --

15 Q. Yeah. We're talking about -- the issue here is
16 the capacity in the market. And so I'm asking you when
17 you looked at a specific hotel, did you say, well,
18 that -- that -- that hotel, the Thompson, is getting a
19 competitor that's exactly very much like the Thompson,
20 and that's going to hurt the Thompson's value.

21 A. Well, we would have looked at relative supply in
22 the market. Such as the Hyatt Regency coming on line.

23 Q. Yeah. I'm asking you about the Thompson hotel
24 specifically and whether you considered The Charter
25 Hotel opening specifically?

1 A. Well, we would have looked at any new supply in
2 the market, and that charter hotel would have been part
3 of that supply.

4 Q. Okay. So -- so you are not answering my
5 question.

6 A. Yes, I am.

7 Q. So the answer to my question is "no"?

8 A. My answer to your question is that The Charter
9 Hotel is part of the supply, and when we're appraising
10 the Thompson hotel, we'd be looking at the relative
11 supply and demand in the market as the time we did that.

12 Q. But in the aggregate, you -- you're looking at
13 the supply in the market in the aggregate?

14 A. Yes, that's how the market would look at it.

15 Q. Okay. So my question is, did you just look
16 only -- did you look just specifically at the charter?

17 A. I don't recall if we specifically looked at --
18 at that. Obviously, we did an appraisal of it
19 separately as well.

20 HEARING EXAMINER VANCIL: Mr. Reuter?

21 MR. REUTER: Yes.

22 HEARING EXAMINER VANCIL: I want to check
23 with you the amount of time you anticipate -- what was
24 your estimated time for cross-examining the witness.

25 MR. REUTER: One hour.

1 HEARING EXAMINER VANCIL: Okay. We'll take
2 a -- and we're closing -- how many more questions do you
3 have within that? You've been on for about almost that,
4 but --

5 MR. REUTER: I -- I might need 15 minutes.

6 THE COURT: Okay. We'll take a break now
7 then, and return at 10:15.

8 MR. REUTER: Thank you.

9 (A break was taken from 10:04 a.m. to 10:15 a.m.)

10 HEARING EXAMINER VANCIL: We'll return to
11 the record. Mr. Macaulay on direct.

12 BY MR. REUTER:

13 Q. I'd like to ask you about Exhibit C-17. Well, I
14 want to ask you about The Edgewater Hotel, and show you
15 C-17, page 107 is -- is the boundary map. And my
16 question is about the judgment calls you made in setting
17 the boundaries.

18 So if you look at The Edgewater, there's a
19 building directly across the street, across Alaskan Way.

20 Do you see that building I'm talking about?
21 It's not in the boundary?

22 A. Yes.

23 Q. It -- it -- it's not a hotel, but it's an office
24 building; isn't it?

25 A. I believe so, yes.

1 Q. And so that's just your judgment call to --
2 to -- to loop in The Edgewater, but leave out an office
3 building that's directly across the street?

4 A. When we got down to that element of -- we had --
5 elements of the Sculpture Park and Myrtle Edwards Park
6 that we were considering in our analysis that it was
7 logical that a hotel would -- would be more reflective
8 of a difference in value to the significance of a
9 \$364 million project like this when we got that far out
10 and then we would say that office building.

11 Q. So I'm not clear what you meant by Myrtle
12 Edwards Park, that and the Sculpture Park. Those are
13 further up Alaskan Way or north mainly from the
14 waterfront; correct?

15 A. Yes. If you go a couple buildings down and walk
16 out the front of that building, you basically go up the
17 steps of Sculpture Park there.

18 Q. So you are saying that the presence of the
19 Sculpture Park and Myrtle Edwards act as kind of a
20 magnet in other direction, some other benefit, and an
21 office building like the one across the street from The
22 Edgewater is more benefitted by those than it is by the
23 LID improvements?

24 A. Yeah, just got down to an area where it got very
25 difficult to measure. Even the 2011 (audio disruption)

1 on the benefits of abutting property to something like
2 the Sculpture Park. Again, we felt that the hotel would
3 have some measurable benefit. But then the office
4 building in that location and having the proximity to
5 other park elements, it just got to the point where we
6 drew the line.

7 Q. And -- and so it's -- it's odd to me that they
8 are both the same basic distance from the LID
9 improvements and from Myrtle Edwards and the Sculpture
10 Park, but one's in and one's out. Doesn't -- don't
11 those other non-LID amenities present the same benefit
12 attraction to The Edgewater as that office building?

13 A. Yeah, in reconciling The Edgewater, that's why
14 we don't have a higher benefit amount for it because
15 of -- its -- its location both in the before and after
16 being close to some existing parks.

17 Q. Okay. And so let me expand on this and ask you
18 about some other attractions, like Myrtle Edwards Park.

19 Like, for instance, the Seattle Center, it is
20 some distance away by foot; correct?

21 A. Well, the Seattle Center is a considerable
22 difference away and would have no bearing on what we did
23 in our boundary recommendation.

24 Q. Not the -- not the -- not for The Edgewater,
25 perhaps, but say Westlake Center is a very short

1 Monorail ride to the new NHL team.

2 Was that kind of benefit included as a potential
3 other factor on market value?

4 A. Well, again, I mean, that would be the same
5 both -- both in the before and after. So any
6 consideration to that is -- is taken into account in
7 both elements.

8 Q. You're assuming that those are built -- that
9 hockey team is actually over there playing hockey?

10 A. Of course not. Not as the date of our value,
11 no. But to whatever -- to whatever market perception
12 there would be of -- of any enhancement to it which is
13 at the time we were doing our analysis, I don't really
14 remember that being a consideration. But it would apply
15 to both the before and after.

16 Q. What about the new convention center, which is
17 right across the street from the numbered buildings I've
18 referred to, how does that impact your -- your property
19 value analysis?

20 Does the construction of a new convention center
21 change the value of properties?

22 A. Well, again, it's the market perception of that
23 both -- both in the before and after. But that element
24 exists in both our before-and-after considerations.

25 Q. Okay. With regard to The Edgewater, did you --

1 do you recognize that The Edgewater Hotel, that company
2 that owns that doesn't own the building or -- or the --
3 the ground on which it sits?

4 A. Yes, I'm aware of that.

5 Q. And so your values of that are strictly the
6 value of the lease holder?

7 A. No, our values of that -- in all of the
8 waterfront property are done on a fee simple basis.

9 Q. It -- when they don't own the fee simple.

10 A. Say, again, please you broke up there.

11 Q. How do you -- you need to explain to me, because
12 The Edgewater seems like a fairly unique case where it
13 does not own the building or the pier on which it sits,
14 but it's paying the assessment, not -- not the state of
15 Washington, which does own the improvements and the
16 structure on which the improvement sit?

17 A. Yeah. In any LID we've done, we've always
18 looked just at the fee simple interest, just as we did
19 at other pier properties, Pier 55, 56, all of those,
20 it's just the basis of our analysis so that we're being
21 consistent with all the -- all the properties within the
22 LID area.

23 Q. So -- so when you say the fee simple interest,
24 does that mean -- is that the same as saying you're --
25 you're assuming they -- they actually do own the

1 building?

2 A. We're just not breaking out the bundle of rights
3 into a leased fee and a leasehold interest. Based on
4 RCWs and case law, we've always looked at the value of
5 the fee simple interest in -- in properties.

6 So we just don't break out those property --
7 those property rights that the leased fee and the
8 leasehold which comprise the fee simple. So that's the
9 case with The Edgewater as well as all of the properties
10 along the waterfront there.

11 Q. With regard to the Westlake Center, did you talk
12 to any of the managers or owners of that about that --
13 about the -- what we call the health of the retail
14 sector Downtown Seattle?

15 A. We didn't talk specifically to the owners or
16 managers of Westlake. But obviously numerous brokers,
17 we confirmed the lease information, you know, the retail
18 market was -- was softening during the time of our
19 valuation.

20 Q. And did you -- did you -- so you didn't talk to
21 anybody from the Westlake Center? Did you talk to
22 anybody from Pacific Place?

23 A. I would have to check with Mary Hamel who did a
24 lot of the commercial work.

25 I talked to somebody -- well, I guess I just --

1 I can't answer that accurately. I believe so, but I
2 don't recall. I know I talked to somebody that was
3 aware of what was going on there. But she was -- I
4 can't recall if we specifically talked to anybody from
5 Pacific Place.

6 Q. Did your after value for the Westlake Center
7 include consideration of a concept called "dwell time"?
8 D-w-e-l-l, dwell time.

9 A. I'm not familiar with that, no.

10 Q. You don't know what that term means?

11 A. That's the first I've heard of it.

12 Q. Really? Okay.

13 Did your valuation of the Westlake Center
14 include any esthetic value, the outward appearance of
15 the Westlake Center as adding value?

16 A. Well, with any property, you look at its
17 physical characteristics.

18 Q. And -- and so the answer is "yes"?

19 A. Sure. Yes.

20 Q. And so did you -- is that to say then that part
21 of the value difference between the hotel Monaco versus
22 the hotel Vintage is that one looks better than the
23 other on the outside?

24 A. It would just be the perception of the market
25 and how the market is looking at it.

1 Q. And -- and isn't how the market looks at it --
2 isn't the way you know that by the income numbers
3 generated by the property?

4 A. Yeah. If there are elements of desirability,
5 one would logically have a higher room rate than the
6 other.

7 Q. It's not some study or some unnamed broker's
8 opinion about value, it's really -- the income-based
9 valuation that drives value; correct?

10 A. Yes. Well, it's one element as well as looking
11 at comparable sales. The revenue element is part of the
12 comparable sales.

13 Q. Okay.

14 MR. REUTER: That's all I have.

15 I would like to move the admission of my
16 exhibits, all with the prefix CWF-133.

17 That would be Exhibits 30, 29, 26, 27, 30 --
18 sorry. I think that's all the ones that came up in my
19 examination as well as you Exhibits -- City Exhibit 3
20 and 17.

21 HEARING EXAMINER VANCIL: And that was,
22 again, you identified numbers 30 -- what your numbering
23 system identifies them as 30, 29, 26, and 27?

24 MR. REUTER: Yes.

25 HEARING EXAMINER VANCIL: Okay. And it

1 looks like your list of exhibits starts at 7. So I'm
2 assuming that your original case had Exhibits 1 to 6
3 already admitted; is that correct?

4 MR. REUTER: My case had 1 through 15
5 admitted.

6 HEARING EXAMINER VANCIL: Okay. All right.
7 Let's keep the same numbering system going then. So
8 what I would like to do then is Exhibit 26 would be
9 Exhibit 16; Exhibit 27 would be 17; Exhibit 29 is 18;
10 and your Exhibit No. 30, for the record, is Exhibit 19.

11 MR. REUTER: And --

12 MR. EDWARDS: And that's CWF-133, 16, 17,
13 18, 19?

14 HEARING EXAMINER VANCIL: Correct.

15 MR. REUTER: Okay. Would you like me to
16 resubmit stamped exhibits with that numbering sequence?

17 HEARING EXAMINER VANCIL: No, we can handle
18 that on our end.

19 MR. REUTER: Thank you.

20 HEARING EXAMINER VANCIL: Thank you.

21 Any objection to Exhibits 16, 17, 18, or 19
22 being admitted?

23 MR. FILIPINI: Just to preserve our
24 objection on the record, we would object to the entrance
25 of 16 and 17 on the same basis as I said earlier when

1 Mr. Reuter was asking questions about him.

2 HEARING EXAMINER VANCIL: All right. I'm
3 going to enter -- under the earlier ruling, I'll allow
4 16 and 17 to be admitted along with 18 and 19, with the
5 City having preserved its objection.

6 MR. REUTER: Thank you.

7 HEARING EXAMINER VANCIL: Before we go to
8 our next objector, who is Jesse Franklin, you can -- if
9 Jesse Franklin can turn your camera on and your
10 microphone.

11 While you're doing that, I want to check
12 with the parties on two items. One, we've had a request
13 from the City to start early tomorrow to accommodate one
14 of its schedule -- one of its witnesses and their
15 schedule.

16 Is there any objection or problem for a
17 party to participant in an earlier hearing starting
18 tomorrow at 8:30 a.m., as we did today?

19 Any objector have an issue with starting at
20 8:30 a.m. tomorrow, as we did today?

21 All right, then. We'll note the schedule
22 again at the end of the day, but we're starting
23 tomorrow, and I think we're on on the 26th -- June 26th
24 we'll start at 8:30 a.m.

25 The City, originally you requested an

1 opportunity to do eight o'clock, but we can't
2 accommodate that with our office schedule. Another
3 opportunity would be if you truly believe you need more
4 time than that, we could possibly cut Mr. Macaulay off
5 shorter today and have that other witness appear
6 earlier. But I'll leave that to you to organize your
7 witnesses that way.

8 One last item I want to touch base on is
9 screen share. There's no protocol that adopted or
10 addressed for that, because for the most part we've
11 asked it for recording purposes. For this hearing, it
12 seems to be proceeding well and a useful tool. So for
13 screen share just, for everyone's clarity, I do
14 encourage its use. If you can use it when you're
15 referring to an exhibit, it is helpful for the witness.
16 Some of the exhibits are a little hard for participants
17 to open up quickly and keep up. So if you do that, it's
18 helpful and encourage it. It is not required that any
19 party do screen share. Some of you are more
20 sophisticated or more able to on the fly learn how to
21 use it. And if you can't, I'm not going to require that
22 someone to do that. But if you can, I encourage it.

23 Lastly, please remember that if you are
24 using screen share and you're referencing a point on a
25 document, particularly a map or something along those

1 lines, orally describe on that item what you're pointing
2 to. Don't just say to the witness "Is it here?" "Is it
3 there?"

4 While we are going to include the video in
5 the record, there is a transcript, and there's an audio
6 recording that is not capturing where you're pointing.
7 And for purposes of clarity in the transcript, which
8 could be viewed by me or another decision-maker at a
9 later date or used by a party, it's useful to clarify --
10 clarify and orally describe what you're doing.

11 Mr. Franklin, your witness.

12 Could you please identify the case numbers
13 that you're appearing for?

14 CROSS-EXAMINATION

15 BY MR. FRANKLIN:

16 Q. I will, Your Honor.

17 Mr. Macaulay, I'll try not to speak over you, so
18 there may be a pause after I state a question to make
19 sure I finished my question, and then I'll try to pause
20 when you've finished your answer. But my questions are
21 very abbreviated. The questions -- my firm represents
22 the owners of CWF 336, 337, 339, 340, and 342.

23 Just for your edification, those relate to the
24 Stadium Place East, Embassy Suites by Hilton, the
25 Courtyard by Marriott Pioneer Square, two properties

1 identified generally as the Palmer Building, and then
2 finally the Olympic Reprographics.

3 Are you generally familiar with those
4 properties?

5 A. Yes.

6 MR. FRANKLIN: All right. And then thanks
7 to Mr. Filipini's earlier stipulation, I would like to
8 move into the admission, the worksheets prepared by
9 ABS Valuation that we submitted to the hearing that are
10 identified as Exhibits 61 through 65.

11 Mr. Filipini, is that all right with you?

12 MR. FILIPINI: Yes. No objections.

13 MR. FRANKLIN: Thank you very much.

14 HEARING EXAMINER VANCIL: They are
15 stipulated to. But I'm sorry, Mr. Franklin, I don't
16 have your folder open yet. Where -- can we stick with
17 that numbering system? Or do we need to make sure it's
18 sequential with what you've got in the record already?

19 MR. SCHNEIDER: It is sequential. The
20 hearing presentation was 1 through 60. So for today's
21 purposes we added 61 through 65.

22 HEARING EXAMINER VANCIL: Excellent. Thank
23 you.

24 Exhibits 61 to 65 for current objector are
25 admitted.

1 BY MR. FRANKLIN:

2 Q. Mr. Macaulay, I actually only have one other
3 question, which may be more of a discussion, but it
4 depends on how you respond. And I apologize, I hoped to
5 have the transcript from the Tuesday hearing to show you
6 the actual words that you used. But I was struck by
7 your testimony that apparently the hotels had an
8 opportunity to submit to ABS Valuation either actual
9 room rates or actual occupancy rates or something that
10 we would normally be willing to share as opposed to the
11 average daily rate.

12 But do you recall when you testified about that?

13 A. Yes.

14 Q. And was there a process by which owners of hotel
15 could submit this information to you?

16 A. Yes. And -- and it would go back to the City,
17 and the City, it's my understanding, made it very clear
18 to property owners that throughout this process that --
19 that they could -- they could provide any -- any
20 information relative to the property that they wanted me
21 to look at.

22 So from the -- from the time that the
23 preliminary assessment notices went out, and they made
24 it known that the -- the final study was underway, that
25 property owners would have the -- the ability to provide

1 me with any relative information they wanted me to
2 consider in my analysis.

3 Q. So that's between the preliminary and the final,
4 not from the issuance of the final assessments?

5 A. Well, it's both. It was during the formation
6 process when we originally made a presentation to the
7 Downtown Seattle Association in BOMA (phonetic), and
8 other property owners, we made -- the City made that
9 clear. I brought it up in my discussion at that point
10 in my presentation that it could be very helpful and
11 then that carried through to after the preliminary
12 assessment notices went out and the property owners were
13 aware of their assessment amounts to that period of time
14 they were doing that work, property owners also had the
15 ability to provide any relative information they wanted
16 us to consider.

17 Q. I'm sorry. I'm sorry, that question must have
18 been poorly stated. I am not asking about any time
19 period other than after the final assessment was issued
20 until today's date.

21 Are you saying that there was a process through
22 which the owner of the hotel could submit to you
23 information for your consideration?

24 A. That -- that I don't know, that would be up to
25 the City -- that would have been up to the City to make

1 a decision on that. I have not been provided any -- any
2 additional information since then, since the final.

3 Q. So I guess, apparently we'll have to look at
4 what you said on Tuesday as to what you really were
5 suggesting, but if I understand your testimony is if
6 there was a process through which information could be
7 submitted for your consideration; correct?

8 A. Yes.

9 Q. And those would have been communicated to all of
10 what are being called here "objectors" in some written
11 format so they would be aware of it?

12 A. They would have to defer to the City and how
13 they set up their communication with the property
14 owners, but that's my understanding.

15 MR. FRANKLIN: Thank you very much. I don't
16 have any other questions Mr. Examiner.

17 HEARING EXAMINER VANCIL: Thank you,
18 Mr. Franklin.

19 Our next objector representative is
20 Ms. Terwilliger.

21 MS. TERWILLIGER: Good morning, Your Honor.

22 THE COURT: Would you state the case numbers
23 for which you are appearing?

24 MS. TERWILLIGER: Yes, I'm here on behalf of
25 Women's University Club. The case number is CWF 0206.

1 CROSS-EXAMINATION

2 BY MS. TERWILLIGER:

3 Q. Mr. Macaulay, I attended your deposition back in
4 February. I have just a couple of questions for you
5 today about the Women's University Club.

6 Are you familiar with the Women's University
7 Club and its location?

8 A. Generally, yes.

9 Q. So it's on Sixth Avenue, 1105 Sixth Avenue. And
10 I'm going to just share my screen to show what we have
11 marked as CWF 0206, Exhibit 1, to show you a map of the
12 LID so we can identify it.

13 Are you able to see that?

14 A. I can see the top, if you can scroll. That's
15 good. Right there is good.

16 Q. So I will represent to you that this was printed
17 off from the LID property search tool. But this right
18 here, on the very first page, there's a map demarcating
19 the LID barrier -- LID boundaries in green; is that
20 right?

21 A. Yes.

22 Q. And does that look like an accurate
23 representation of the LID boundaries?

24 A. Yes.

25 Q. And this blue dot sort of in the middle of the

1 LID, in terms of north/south represents, the Women's
2 University Club, which is on Sixth between Spring and
3 Seneca; right?

4 A. That's correct.

5 Q. And the gray line that is the easternmost border
6 of the LID, that's I-5; right?

7 A. That's correct.

8 Q. So the Women's University Club is just the west
9 of I-5?

10 A. That's correct.

11 Q. And who made the determination that the Women's
12 University Club was in the area that would receive a
13 special benefit from the waterfront improvements?

14 A. That was within our boundary line
15 recommendation.

16 Q. And did you ever make any recommendations, or
17 did you ever consider drawing the easternmost boundary
18 of the LID anywhere other than along I-5?

19 A. Not that I recall. Often when we do boundaries,
20 we're looking for good geographic defined boundary
21 elements like that. So I don't recall ever looking
22 at going up into Capitol Hill or First Hill from there.

23 Q. Okay. In your assessment, you originally put
24 the Women's University Club in what you called area D;
25 right?

1 A. If that's the map number, then we used that for
2 informational purposes to identify with each individual
3 tax parcel number.

4 Q. Okay. And area D was the lowest level of
5 project impact or benefit; right?

6 A. It was -- a lot of these areas overlapped,
7 whether it was the lowest or not, I don't recall.

8 Q. Did you have an area E?

9 A. Yes.

10 Q. Okay. All right. So do you recall what the
11 proposed final assessment for the Women's University
12 Club is?

13 A. I had looked at it yesterday. I -- I don't have
14 the specific number off the top of my head.

15 Q. Okay. So I'm going to pull up -- first, I'm
16 going to pull up CWF 0206, Exhibit 2, which you'll see
17 the Notice of Final Assessment. And if we go to page 3
18 of the document, do you see where it says "Proposed
19 Final Assessment"?

20 A. I'm not showing -- seeing that on my screen.

21 Q. Okay. Hang on, one second.

22 There you go. Are you able to see the top of
23 that document, the Proposed Final Assessment?

24 A. Yes.

25 Q. So proposed final LID assessment for the parcel

1 the is \$76,013.47, and that's based upon your
2 calculation of a special benefit of \$194,000; is that
3 right?

4 A. That appears to be correct, yes.

5 Q. I'm going to bring up your calculation of --
6 this is CWF 0206, Exhibit 4.

7 Does this look to you like your calculations?
8 I'm just going to -- first of all, are you able to see
9 it?

10 A. Yes.

11 Q. Okay. Does this look like your calculations you
12 stated with the Women's University Club?

13 A. Yes.

14 Q. So looking at the -- the special benefit summary
15 at the very bottom. Your calculation was that the
16 percentage and change in land value from the LID is
17 .75 percent; is that right?

18 A. That's correct.

19 Q. Okay. And you -- your -- your estimation of
20 the -- without LID value of the Women's University Club
21 is \$25,920,000. And you see that increase to
22 \$26,114,000 with the LID.

23 Do I have that right?

24 A. Yes.

25 Q. Okay. So you assigned a special benefit of .75,

1 and that resulted in a final assessment of \$76,000?

2 A. Correct.

3 Q. Okay. I'm going to show you next what we have
4 marked as Exhibit CWF 0206, Exhibit 3.

5 And Mr. Macaulay, are you able to see that?

6 A. Yes.

7 Q. Okay. And so this is the King County Department
8 of Assessments, a printout from there.

9 Do you see that?

10 A. Yes.

11 Q. I'm going to scroll down so you can -- I know it
12 is hard when you are not driving.

13 On your calculations that we just looked at on
14 Exhibit 4, you found that the market value for the
15 Women's University Club with the LID is \$26 million; is
16 that right?

17 A. That's correct.

18 Q. Okay. So looking at this, are you able to tell
19 me what the King County Assessor -- scrolling down --
20 what value the King County Assessor assigns to the
21 Women's University Club? Let's start with 2/20/19. DO
22 you see that? The appraised land value \$6,274,000.
23 Total value just over \$7 million.

24 Do you see that?

25 A. Yes.

1 Q. So your market value of the Women's University
2 Club is more than three times what King County appraises
3 the Women's University Club as; is that right?

4 A. That's correct.

5 Q. Okay. Mr. Macaulay, are you familiar with the
6 Rainier Club?

7 A. Yes.

8 Q. So it's located on Fourth Avenue between
9 Columbia and Marion. And I'm going to pull up Exhibit 1
10 again so that we can just locate it on the map.

11 As we said before, the blue arrow is where the
12 Women's University Club is. And if the Rainier Club is
13 on Fourth between Columbia and Marion, I think it
14 puts -- I don't know if you can see my "X," but it puts
15 it about, what do you think, eight blocks, four blocks
16 south and four blocks west of the Women's University
17 Club; is that right?

18 A. Approximately, yes.

19 Q. Okay. So it's -- the Rainier Club is closer to
20 the waterfront than the Women's University Club; right?

21 A. By -- by blocks, yes.

22 Q. Okay. And the Rainier Club faces the
23 waterfront; right?

24 A. It -- yeah, the main part of the building faces
25 the waterfront, correct.

1 Q. Do you recall what you assigned the special
2 benefit for, for the Rainier Club?

3 A. I think it was fairly close to what we had for
4 the Women's Club.

5 Q. So I'm going to pull up what has been used today
6 as C-17, which is Mr. Macaulay's report.

7 I've highlighted the Rainier Club just so that
8 we are all on the same page and it's easier to read.

9 Mr. Macaulay, are you able to see this? The
10 Excel spreadsheet from your chart.

11 A. Yes.

12 Q. I'll represent to you that this is -- we're
13 looking at cell C-138, which is in the PDF version
14 page 20 of Exhibit C-17. And I've highlighted the
15 Rainier Club. And you will see if we scroll over what's
16 the assigned special benefit for the Rainier Club, can
17 you tell me?

18 A. \$214,000.

19 Q. So that's a point five percent special benefit;
20 is that right?

21 A. Yes, that's the difference between the -- the
22 percentage difference between the before-and-after
23 market value estimates.

24 Q. And so just to -- just to familiarize yourself,
25 we talked about this, but the Women's University Club

1 was assigned a .75 special benefit; is that right?

2 A. That's correct. Well, that was the difference
3 between -- that was the percentage difference between
4 its before-and-after value.

5 Q. Okay. Thank you.

6 And, Mr. Macaulay, are you aware that the
7 Rainier Club is historically a club for men?

8 A. Well, it's a historic structure. I couldn't
9 find any deed restrictions that precluded the sale of
10 the property or the use of the property that -- that a
11 buyer and a seller in the market would be constrained
12 by.

13 Q. Just with your familiarity with Seattle, are you
14 aware that the Rainier Club is historically a club for
15 men?

16 A. Yes, I've been in it before and with men.

17 Q. Okay. And are you aware that the Women's
18 University Club, again, just based on your general
19 knowledge, is historically a club for women?

20 A. Yes. Again, looking at -- at the -- we couldn't
21 find any deed restrictions that prohibit the sale of
22 that either, or any -- any underlying use restrictions
23 that precluded the sale of it that -- any case that
24 would specify the -- the internal use for either men or
25 women. It could be available for other market uses.

1 MS. TERWILLIGER: Okay. Thank you. I have
2 no further questions.

3 I would like to move the admission of
4 Exhibits CWF 0206, 1 through 5. Actually, 1 through 4.

5 HEARING EXAMINER VANCIL: Any objection to
6 Exhibits 1 through 4 being admitted?

7 MR. FILIPINI: No objection.

8 HEARING EXAMINER VANCIL: Exhibits 1 to 4
9 are admitted.

10 MS. TERWILLIGER: Thank you, Your Honor.

11 HEARING EXAMINER VANCIL: Thank you.

12 We have our next objector is Albert Wang.
13 Mr. Wang, please turn on your microphone and camera.

14 MR. WANG: Yes. Your Honor, can you hear me
15 okay?

16 THE COURT: Yes. Please state clearly the
17 number or case numbers that you're representing.

18 MR. WANG: Yes, this is for CWF 0390 and
19 just for the record, that's the Pier 48 property as well
20 as the former "Waska" terminal.

21 HEARING EXAMINER VANCIL: You may go ahead.

22 MR. WANG: Thank you, just briefly.

23 CROSS-EXAMINATION

24 BY MR. WANG:

25 Q. Mr. Macaulay, do you recall in your testimony on

1 Thursday when you were talking about the ferry terminal,
2 the Coleman Dock?

3 A. Yes.

4 Q. Can you recall at that time you had said that
5 the Coleman Dock was highway right-of-way?

6 A. The -- the waterway between there and the route
7 of the ferry is -- is -- in my understanding, considered
8 part of the highway right-of-way system.

9 Q. And as a result you had assigned that as zero
10 special benefit; correct?

11 A. I don't recall specifically if we have zero
12 benefit on that or not. I don't have the spreadsheet in
13 front of me.

14 Q. Okay. Do you have a transcript in front of you
15 from Thursday, by any chance?

16 A. No, I don't.

17 Q. Okay. I can screen share that. Let me see
18 if --

19 Are you getting that okay?

20 A. Yes.

21 Q. This is the transcript from Thursday at
22 page 210. It's March -- it was transcript page 210.

23 Can you see at the bottom where it says "A ferry
24 is considered to have zero benefit"?

25 A. Yes. Because it's considered to be part of the

1 state highway system.

2 Q. And a highway system, that says "zero benefit,"
3 it's not bought and sold on the open market like other
4 properties would be; is that correct?

5 A. Yes. It just -- it wouldn't have any -- any
6 economic change in value before and after the LID
7 improvements.

8 Q. And, in fact, there's a legal prohibition on
9 selling highway right-of-way, unless it's determined by
10 the Department of Transportation to be surplus; is
11 that correct?

12 A. That's my understanding too, yes.

13 Q. And when you're looking at the change in value,
14 any legal restrictions on the sale of that property
15 would impact the finding of benefit; is that correct?

16 A. Yes.

17 MR. WANG: Okay. I think that's all for me.
18 Thank you.

19 HEARING EXAMINER VANCIL: Next objector is
20 Mr. Schneider. Pat Schneider. Turn on your camera and
21 microphone. Welcome, Mr. Schneider.

22 Would you state the case number or numbers
23 that you are representing?

24 MR. SCHNEIDER: Yes, good morning,
25 Mr. Examiner. I'm here on behalf of the Waterfront

1 Landings Condominium Association and one of its members,
2 Mary Moreno.

3 The numbers are CWF 0398 and CWF 0204.

4 HEARING EXAMINER VANCIL: Thank you.

5 CROSS-EXAMINATION

6 BY MR. SCHNEIDER:

7 Q. Good morning, Mr. Macaulay, I would like to
8 start by reminding you of testimony you gave in response
9 to a question of the City attorney on Friday, June 19th.
10 You were asked "How does your analysis consider lost
11 views?" And you responded by referring to the
12 Waterfront Landings Condominium as an example of how
13 your special benefit analysis took views into account.

14 Do you recall that?

15 A. Yes, I do.

16 Q. Okay. And you acknowledged in your testimony
17 that the -- what I'm going to refer to as the Pine
18 Street Connector, the new street that takes traffic from
19 Alaskan Way down from Elliott and Western and -- that
20 comes down to the waterfront was part of the before or
21 without condition of the LID; correct?

22 A. That's correct.

23 Q. And you also acknowledged that the Overlook
24 Walk, which was part of the LID, was part of the after
25 or with condition; correct?

1 A. That's correct.

2 Q. And that both of those structures would block
3 views from the Waterfront Landings' condominium;
4 correct?

5 A. Yes. The Pine Street Connector walk -- both
6 before and after, and then the Overlook Walk would have
7 some view impediment as well in the after condition.

8 Q. Okay. And -- excuse me. Go ahead.

9 A. Yeah, if you're trying to look back towards the
10 city.

11 Q. Okay. And then you went on and explained that
12 you took those view impacts into account by looking at
13 sales data, how the market would have valued those view
14 impacts; is that correct?

15 A. That's correct.

16 Q. Okay. What sales data did you have for units
17 within the Waterfront Landings' condominium that would
18 have views that would be impacted by either of those
19 structures?

20 A. Yeah, I don't recall specifically. Mary Hamel,
21 who did our condo valuations, indicated there were
22 several sales that in poor condition would have --
23 they -- that sold knowing that there was going to be an
24 elevated Pine Street Connector be built and that that
25 any impact on value would have been reflected within the

1 sale price of those condominium units.

2 Q. Okay. Well, Mr. Macaulay, I have -- if we could
3 turn to Exhibit 14 that I submitted on behalf of the
4 condominium association. And I'll -- I'll bring it up
5 on the screen share here.

6 And this is a document from your files. And as
7 far as I can tell, it is the only document that you have
8 that reflects sales of condominiums.

9 And are you able to see that?

10 A. Yes.

11 Q. And I've gone through this and found five sales
12 from -- I think all of these sales are from 2019
13 throughout the entire document. I found five sales
14 involving the Waterfront Landings' condominium and none
15 of them involved units that have views that would be
16 affected by either the Pine Street Connector or the
17 Overlook Walk. Isn't that fair and accurate?

18 A. Well, we -- we had looked at sales throughout
19 the course of this project, probably going back to 2016
20 or so that should also be on -- on the clerk's file.
21 So --

22 Q. Mr. Macaulay, before we go back to another
23 document.

24 Isn't it correct that from 2019, which is the
25 year of your special valuation, you have no sales

1 involving units in the Waterfront Landings' condominium
2 whose views would be affected by either the Pine Street
3 Connector or the Overlook Walk?

4 A. Well, they couldn't be affected by the Overlook
5 Walk because that's an after condition. Whether these
6 were going to be impacted by the Pine Street connection,
7 I don't know.

8 Q. Okay. Well, I'm going to submit to you that
9 none of these sales involve units looking to the south
10 that would be impacted by view. And you're not able to
11 identify a single sale that would say that that
12 conclusion is wrong; correct?

13 A. Correct.

14 Q. Okay. And how many units face the south and
15 would have views that are impacted by either of those
16 structures?

17 A. I do not know sitting here.

18 Q. I submit to you that there are 18 units (audio
19 disruption) and four on the four floors above that.

20 Why don't we -- and you -- let's turn to another
21 exhibit, which is our Exhibit 13. And you referred to
22 sales going back to 2016, I believe?

23 A. Yeah, we may have gone back further than that, I
24 don't recall. I don't think anything past 2016, for
25 sure. But we could have gone back to 2015 as well.

1 Q. Okay. Well, here's a document that reflects the
2 sales from 2010 through 2016 involving the Waterfront
3 Landings condominium. Again, another document from your
4 files.

5 Do you know whether any of these units face
6 south and would have views that are impacted by the
7 structures?

8 A. Again, sitting here, I do not know that.

9 Q. Okay. And you're not suggesting that sales from
10 2010, 2012, '13, '14, '15, or even '16 would take in
11 account those structures when the special benefit -- the
12 initial analysis of the feasibility study wasn't even
13 done until 2017; correct?

14 A. We wouldn't have put any relevance on those
15 older sales.

16 Q. You testified on Friday that you took sales into
17 account in establishing impact on view, but you can't
18 identify any sale from Waterfront Landings that, in
19 fact, you used for your determination; correct?

20 A. Well, again, as I sit here, I can't tell if
21 there -- back towards the city or not.

22 Q. Well, I'm representing to you that there aren't
23 any. And if you believe I'm wrong, I'm sure you can
24 respond in your closing argument.

25 So I'm going to turn to another exhibit now that

1 we submitted. And these are some renderings from the
2 City's files. This is ABS Valuation page 57. And it
3 also has page 58, which I'll turn to in a moment.

4 And do you recognize what's depicted here?

5 A. Yes. It would be the before condition.

6 Q. Okay. And the before condition includes what
7 I've referred as the Pine Street Connector, which is the
8 street we see there to the left of the aquarium and
9 expansion area and immediately to the right of the
10 southern-most building in the Waterfront Landings
11 Condominiums?

12 A. Yeah.

13 Q. And the street trees that are planted along that
14 Pine Street Connector are also part of the before
15 condition; correct?

16 A. Yes.

17 Q. And do you know how -- how elevated that
18 structure is?

19 A. I've looked at the plans before. I can't
20 remember off the top of my head the exact height amount
21 or the height limit.

22 Q. You would agree, would you not, just from
23 looking at this rendering prepared by the City that
24 between the height of the elevated street itself and the
25 street trees that at least three if not four floors of

1 the condominiums would have views that would be
2 affected; correct?

3 A. Yes. And this was discussed. We met with the
4 Waterfront Landings Condominium Association. Oh, it was
5 during -- or starting the formation study and made them
6 aware of this; that the before situation is going to
7 have some view blockage for some of their units.

8 Q. And why didn't you discount the value of the
9 south facing units to account for the view blockage that
10 you knew was taking place?

11 A. Well, we would have in the before condition, as
12 relevant as we could. If you look in the -- our backup
13 file, Ms. Hamel writes kind of a summary of some of the
14 value conclusions that she considers. And if we didn't
15 have sales within a particular unit, we tried to find
16 other similar sales within the market area and make
17 adjustments for those elements.

18 Q. Well, I'm -- we'll turn to some exhibits in a
19 moment, Mr. Macaulay, that depict what you did. But I'm
20 representing to you that not a single south-facing unit
21 has its before value discounted to reflect the fact that
22 units that now have views are no longer going to have
23 views. Was that a surprise to you?

24 A. Yes, they should -- they should reflect how the
25 market perceived the value of those units in the before

1 condition.

2 Q. Okay. And so if they don't do that, is that a
3 problem with your before special valuations or your
4 before assessment of value?

5 A. Well, it's a matter of opinion. It just -- it
6 would be our estimated value of -- of how the market
7 would -- the value of those units in the before
8 condition.

9 Q. Okay. So, Mr. Macaulay, I'm -- and you tell me
10 if you disagree, that you varied the value of units
11 within the Waterfront Landings Condominium based on
12 whether you thought the value was increased by views or
13 not.

14 Is that a fair summary of the approach that you
15 took?

16 A. Well, we would have looked at -- at each
17 property in the before. And based on the information we
18 had and made a market value estimate and then again in
19 the after. So, obviously, the view amenity would be a
20 consideration, yes.

21 Q. And I'm suggesting the only consideration that
22 you took into effect -- into account in establishing
23 different square footage values for units within the
24 condominiums was views.

25 Can you identify any other factor that you took

1 into account other than what you assumed to be the true
2 about the views?

3 A. Well, obviously the size difference of the unit.
4 The location within the complex, I tried as much as
5 possible to reflect value of any differences that would
6 be relevant.

7 Q. Okay. I'm going to turn to another exhibit,
8 Mr. Macaulay. We have a series of these. There are
9 four of them. And these are floor plans of the
10 condominiums. The condominiums stretch three blocks to
11 the north, with the wing on the right called the
12 "Viaggio" being the southern-most one closest to the --
13 to the park and to the Pine Street Connector.

14 And one of the -- the chair of the homeowners'
15 association went through your assessments for every unit
16 in the condominium and discovered that you had assigned
17 values of -- in 25-dollar increments between \$600 and
18 \$700 a square foot for the units within the condominium.

19 So every unit is either 600, six and a quarter,
20 650, 675 or \$700 per square foot. Is that accurate?

21 A. It's been -- it's been a significant amount of
22 time since I reviewed the valuation of the condos.
23 But sitting here, I can't affirm that. But I'm not
24 saying you're wrong.

25 Q. Okay. Well, I have the exhibit from which the

1 calculations were done, and I'll bring that up on the
2 screen in a moment. But I submit that that is an
3 accurate summary of what you did.

4 And we're looking here at -- and then the -- the
5 chair of the condominium association who went through
6 and did the calculations, then prepared these floor
7 plans and color-coded them based on how -- the value per
8 square footage that you had assigned to each unit.

9 So no color in a unit means the value you
10 assigned was \$600 a square foot; and the purple color
11 that we see here means it was \$625 a square foot.

12 So we're looking at the first floor. And I -- I
13 assume you would agree that the south-facing units on
14 the first floor, which now have views down the
15 waterfront will have no views whatsoever except the
16 concrete wall of the Pine Street Connector; correct?

17 A. They would have some view obstruction, yes.

18 Q. Okay. They would have a view of a concrete
19 wall?

20 A. Well, I haven't been inside the units, per se,
21 so I can't say exactly how their view is going to be
22 impacted, but there will be a raised elevated roadway
23 there.

24 Q. Okay. Well, take a look at this first floor,
25 floor plan, it shows the same \$600-per-square-foot value

1 per unit for units 103 and 105, which will be looking
2 out at a blank concrete wall as for every other unit but
3 for three on the first floor of the condominium
4 association.

5 So how did you account for decrease in value
6 based on views -- that those units are being charged the
7 same amount as every other unit on the same floor?

8 A. I would need to go back and confirm with
9 Ms. Hamel and go over this with her to get a clear
10 depiction. It's been a number of months since I've
11 looked at any of this work --

12 Q. Well, Mr. Macaulay, assuming this is accurate.
13 And, again, if you believe it's not, you can tell us all
14 in your closing statement.

15 Assuming this is accurate, you didn't discount
16 one dollar because of those blocked views, did you?

17 A. Yeah. Again, I would need to go back and review
18 the information.

19 Q. Yeah. And, again, I'm asking you to answer my
20 question. If this is accurate, you did no discount;
21 correct?

22 A. If that's accurate, then (audio disruption) --
23 the unit values, no.

24 Q. Okay. Now, let's look at the second floor,
25 then.

1 Again, we have four units facing south; 201, 3,
2 5, and 7. The two middle units are still at \$600 a
3 square foot. But the two corner units have been
4 increased to \$625 a square foot despite the fact that
5 they're going to be looking at a concrete wall of the
6 Pine Street Connector; correct?

7 A. Again, I would need to go back and look at this
8 and see why those -- why those (audio disruption) and
9 review it. I haven't looked at this for a very long
10 time.

11 Q. Well, Mr. Macaulay, in terms of efficiency, why
12 don't we take it as a given that you haven't looked at
13 this stuff in a while and assume that what I'm
14 representing is accurate. And then if you would just
15 simply answer my question.

16 Assuming this is accurate, you didn't discount,
17 in fact, you increased the value of two of the units
18 despite the fact that they would have view blockage;
19 correct?

20 A. Well, again, I need to go back and review and
21 talk to Ms. Hamel as why -- why -- if that's the fact,
22 why is that the case? Sitting here right now, I can't
23 answer that question.

24 Q. Well, Mr. Macaulay, you are the City's appraisal
25 and it's your professional opinion that we're talking

1 about. And you can't respond to every question saying
2 you have to go talk to someone about it. I would like
3 you to give a straight answer to a straight question.

4 You didn't discount for view blockage, in fact
5 you increased the value of two of the units; correct?

6 A. I can't say.

7 MR. FILIPINI: If I could object,
8 Mr. Hearing Examiner. I think this is both asked and
9 answered and argumentative.

10 Again, this witness has identified that he
11 doesn't have additional information here. It's also
12 Mr. Schneider is testifying and asking my witness
13 questions.

14 HEARING EXAMINER VANCIL: Mr. Schneider,
15 response?

16 MR. SCHNEIDER: The witness is here because
17 he's the City's witness who's supposed to be able to
18 explain the valuations. And I've already accepted the
19 fact that he hasn't reviewed this data. But he can
20 certainly give a straightforward answer. It's not
21 argumentative about whether I'm accurately
22 characterizing what he did based on these documents.

23 And since he has no knowledge, you know,
24 about the accuracy of the documents, that's something
25 we'll have to wait to hear about in closing argument.

1 But I believe they're accurate and they --
2 they have had them. They were presented in compliance
3 with your order on Monday morning. So they have had
4 plenty of time to review them and determine whether
5 they're accurate. And they are simply based on his
6 calculations.

7 So I think I'm entitled to answer about what
8 these -- these documents represent.

9 HEARING EXAMINER VANCIL: So, Mr. Schneider,
10 I'll let you ask the question again. There has been a
11 bunch of backloading of argument behind it, which is not
12 necessary to the question. I'll allow the question.
13 And let's do this one more time. You've asked it
14 several times and haven't gotten a response. I allow it
15 in the context that essentially as if it's a
16 hypothetical.

17 Mr. Schneider's got to prove it later in his
18 briefing.

19 Mr. Macaulay, you've got to respond to it
20 later. But you have a hypothetical being posed to you
21 and you do need to answer the question.

22 MR. SCHNEIDER: Thank you.

23 Mr. Examiner, if I may repeat the question
24 for clarity of the record?

25 HEARING EXAMINER VANCIL: Please do so.

1 BY MR. SCHNEIDER:

2 Q. Assuming as a hypothetical that this is an
3 accurate representation of your valuation data for the
4 second floor, you did not decrease the value of any
5 units based on view blockage, but in fact you increased
6 this \$625 a square foot, the value of the two corner
7 units; correct?

8 A. If that's a hypothetical; that's correct. But,
9 again, I would need to go back and -- and review the
10 reasons why and review the analysis.

11 Q. Okay. And you increased the value of the two
12 corner units. So why would -- if you're increasing
13 values based on views, what's the rationale for
14 increasing the value of views from corner units?

15 A. Yeah. Again, I would need to go back and review
16 the work we did and -- and confer with Ms. Hamel who did
17 the primary analysis on the condos and find out the
18 reasons why or why not there weren't adjustments there.

19 Q. Okay. Let me ask the hypothetical question,
20 again, Mr. Macaulay. It's clearly a hypothetical.

21 Assuming -- and we'll see other slides that show
22 this. Assuming that you increased the value of units
23 that are corner units, what would be the reason for
24 doing -- why would an appraiser do that?

25 A. It would be their desirability in the

1 marketplace.

2 Q. Because of views from two sides instead of one?

3 A. Yeah, perhaps, when Ms. Hamel was looking at the
4 data, she felt that those units would be more valuable
5 from the before and after.

6 Q. Well, again, the question is because you get
7 views from two sides instead of one?

8 A. I don't know. Again, I would have to go back
9 and -- it would be a reflection of how the market is
10 buying and selling that type of corner unit.

11 Q. Well, if you can articulate another reason why
12 unit 201 has an increase in value despite the fact it is
13 looking into a blank concrete wall other than the fact
14 it's a corner unit, please do so in your closing
15 statement.

16 But I'm going to submit to you that that corner
17 unit is not a corner unit and that the eastern wall is a
18 concrete wall with no windows in it. If that were the
19 case, would there be any basis for increasing its value
20 based on the fact that it's a corner unit?

21 A. Yeah, I don't know sitting here.

22 Q. Yeah. I'm going to bring up another exhibit, or
23 at least. I apologize. We're having technical issues
24 here.

25 HEARING EXAMINER VANCIL: Take your time.

1 BY MR. SCHNEIDER:

2 Q. Okay. I'm moving up to the fifth floor,
3 Mr. Macaulay.

4 Mr. Macaulay, again, as a hypothetical that this
5 depiction -- color depiction accurately reflects the
6 value that you determined in your spreadsheet the -- the
7 yellow is 650 a square foot, the green is 675, and what
8 I'm calling the pink is \$700 per square foot.

9 And, again, you have unit -- and this is
10 actually both the fourth and fifth floors because on
11 the -- let me correct that.

12 On The Viaggio, the southernmost building on the
13 right-hand side of this, you can see they have numbers
14 401 and 501; that's because the two floors in that
15 particular building are identical on the fourth and
16 fifth floors.

17 So looking here at the fifth floor, you have a
18 higher value for the 401/501 unit. Again, it's a corner
19 unit, but the east wall, I submit to you, is a blank
20 concrete wall.

21 You do have a higher value for the west-facing
22 units that -- the maximum values. And then you also
23 have 675 for the -- the units in the middle building
24 that surround the middle courtyard.

25 So, Mr. Macaulay, you were at the condominium

1 association, did you actually go into these buildings
2 and examine views from any of these units?

3 A. No.

4 Q. And we'll see this in a moment. I'm going to
5 bring up another one of these. But I submit what we
6 find when we compare these different slides is that the
7 values go up as the floor number goes up.

8 So the fifth floor has the highest values, all
9 of the units here are valued at either 650, 675 or \$700
10 a square foot. Let me bring up one of these.

11 Here we have the third and fourth floors. So
12 the fourth floor only has one unit valued at 700; has
13 the green again are the 675; the yellow are the 650.
14 And then if you compare the third floor, we have the
15 western-most facing units and Unit 301, that corner
16 unit, at a higher value. And then we have all of the --
17 on the third floor, we have all of the further back
18 units at \$600 a square foot.

19 So is it fair to say that the values you
20 assigned to these units, in general, increase as one
21 goes from the first floor up to the fifth floor, leaving
22 aside the individual variations on each floor for a
23 moment?

24 A. That appears to be the case, if what you're
25 saying is correct. It's been some time since I've been

1 able to look at this information.

2 Q. Can you think of any other reason that you would
3 have assigned heightened value to upper-floor units
4 other than you have the assumption that they would have
5 improved views from the upper-floor units?

6 A. Again, I would have to defer to Ms. Hamel and go
7 over this with her and get her thought process on why
8 she had differences for these different units.

9 Q. Mr. Macaulay, I'm asking you now, can you think
10 of any reason that -- that would assign higher values to
11 upper-floor units other than increased views?

12 A. There could have been size -- size factors or
13 other factors. Views. Views would have probably
14 weighed prominently in our decision.

15 Q. Okay. So you increased -- I think it's fair to
16 say that these exhibits depict the fact that you
17 increased value based on assumptions about view.

18 But, again, you have decreased value of the
19 units whose views are going to be blocked by either the
20 Pine Street Connector or the Overlook Walk; correct?

21 A. Well, we're -- we're showing there's benefit
22 there. Again, it's our reflection of the market.

23 Q. Mr. Macaulay, what --

24 A. I have not had the chance to look at this --
25 your exhibits prior to testifying. I know you provided

1 them. I just had the hours to go through this and look
2 at this, so as best I can, I'm trying to answer your
3 questions.

4 But we need time to go back and confer with
5 Ms. Hamel on why these factors you're discussing --
6 discussing are relevant. What the thought process went
7 in to why we have these changes. When I have that
8 information, I could -- I could more clearly have an
9 answer to these questions.

10 Q. Mr. Macaulay, you referred to the market. But I
11 thought we established at the outset of your testimony
12 that you didn't have any market data that you could
13 point to that reflected view, impacts of the
14 south-facing units even though you testified on Friday
15 that you had such data; correct?

16 A. Well, I -- I thought -- I thought we did my
17 conversations with Ms. Hamel. And if you go back and
18 look at the letter she wrote, if there weren't
19 sufficient sales information within a specific
20 condominium unit, then she would look at other
21 comparable condominium projects in the area and make
22 adjustments relative to the information she didn't have
23 within the subject project.

24 Q. So Mr. -- Mr. Macaulay, (audio disruption) I
25 submit on at least four floors, 22 units facing south,

1 all but four of those units are below the fifth floor.

2 The first four floor units, I think, the picture
3 we looked at clearly shows they're going to have their
4 views blocked, their existing views of the waterfront
5 blocked by the Pine Street Connector. The fifth floor
6 is going to have its views blocked by the Overlook Walk,
7 as you acknowledged in your testimony on Friday. And
8 yet I submit there's nothing in these exhibits that
9 shows that you discounted the value of a single one of
10 those 22 units based on views.

11 Do you have any evidence, any market data to
12 dispute what I just said?

13 A. Again, not sitting here right now.

14 Q. Okay. And, in fact, if we look at this exhibit,
15 which is Exhibit 5 that we submitted, it shows the -- I
16 think it's a combination of all the floors except the
17 first floor.

18 So you can readily see, based on the coloring,
19 the second floor has a few units that are given
20 increased value. The third floor has more units. The
21 fourth floor has lots of units. All of the units are
22 given this increased value as on the fifth floor, but
23 the fifth floor has even higher values.

24 And I submit that what you are doing here --
25 what this shows is that you were increasing the value of

1 units based on your assumptions about views, but you
2 failed to discount the value of a single unit that would
3 be adversely impacted by either the before or after
4 condition of the waterfront project.

5 And, again, if you have any market data or any
6 explanation that says that's wrong, I invite you to
7 present it in your closing argument.

8 A. We will do so.

9 Q. Okay. Now, I --

10 HEARING EXAMINER VANCIL: Stick to the
11 questions, Mr. Schneider.

12 BY MR. SCHNEIDER:

13 Q. Mr. Macaulay, I'm going to turn -- I'm going to
14 come back to this unit -- this exhibit in a moment.

15 But I want you to look at Unit 430, which is on
16 the fourth floor in -- you probably can't see my cursor,
17 but it's -- do you see it? It's in yellow. It's on the
18 southern-most wing of the central building against the
19 back.

20 Can you see Unit 430?

21 A. The print is too small for me to read. Can you
22 point it out?

23 Q. In the middle -- I don't know that I can point
24 on this.

25 It's the middle building. So we're looking at

1 the fourth floor. It's the middle building. The
2 southern-most or right-hand wing has four units on it.
3 The western-most one is green. The next three to the
4 east, which would be towards the top, are yellow. And
5 430 is the -- is the last unit in that row. So it's
6 painted in yellow. It's 430.

7 And then I want you to keep that in mind --

8 HEARING EXAMINER VANCIL: Are you tracking
9 that, Mr. Macaulay? Did you follow that?

10 THE WITNESS: I can't read it. I roughly
11 know where he's talking about.

12 BY MR. SCHNEIDER:

13 Q. Okay. You should have hard copies, since they
14 were submitted.

15 But it's Unit 430. And I want you -- I'm going
16 to show you some pictures in a moment that depict the
17 view from that unit. And I want you to compare it to
18 unit 326, which is on the third floor.

19 So it's a floor lower, and it's a western-facing
20 unit. And if you look at the third floor, it's on the
21 other wing of the central building, and it's the -- it's
22 the northern-most unit on that central wing.

23 So we've got a unit at the back on the fourth
24 floor, and a unit on the front with the western --
25 (audio disruption) on the third floor.

1 And let's turn to another exhibit.

2 So, Mr. Macaulay, these are pictures taken by
3 Mary Moreno, and she submitted them with her appeal
4 months ago. This is the view -- the one I have in the
5 screen now. The caption is on the next page. But you
6 can see. Excuse me. Here it is.

7 This is the view from Unit 326. So this is the
8 western-facing unit on the third floor.

9 And this is the view of the water from Unit 430
10 on the fourth floor.

11 You ascribed a higher value per square foot to
12 this unit with this constricted view than you did to
13 this unit with the expansive waterfront view.

14 Do you have any explanation for that, other than
15 you were making assumptions about views that weren't
16 correct?

17 A. Yes, we would be basing ours off of the
18 Assessor's data, and paragraphs there was a different
19 perception of view that we had from that information. I
20 haven't gone in and physically inspected all of the
21 five-thousand-some condominiums, its interiors.

22 Q. Okay. You assigned values -- I'm going to
23 submit that you assigned values going back to the prior
24 exhibit for a moment.

25 Based on views and based on assumptions about

1 views, and you assumed that this view had a higher value
2 per square foot than this view because this -- because
3 the constricted narrow view was on an upper floor.

4 And I submit that there were multiple examples
5 depicted on these floor plans -- plates, that you assume
6 that views that weren't facing the water -- or units
7 that weren't facing the water had improved value based
8 on views when in fact the views are constricted, because
9 only the most western-most units have unencumbered views
10 of the water.

11 So, again, if the data reflected on these
12 exhibits is accurate, then your assumptions about value
13 based on views were inaccurate; correct?

14 A. Yeah. Again, we would have been basing --
15 because we didn't inspect the interior, we would have
16 been basing the information on the Assessor's records
17 and their depiction of views, so that's probably where
18 the difference lies.

19 Q. So are you saying that the starting value, the
20 \$600 a square foot for the lowest valued units in the
21 condominium are based on Assessor's values? He values
22 those units at \$600 a square foot.

23 A. We -- we didn't rely on any of the Assessor's
24 values for what floor -- for estimating the market value
25 of the units. We based -- but we had to base it,

1 because we're not inspecting each individual unit.

2 We had to -- get the descriptive information
3 from them on the -- the view element. And -- and if
4 there's a difference in that, that's where I think that
5 would have come from.

6 Q. So, Mr. Macaulay, assuming the depictions
7 accurately reflect your work, I submit that you
8 increased the value of units based on faulty assumptions
9 about views and you didn't decrease the value of a
10 single unit even though you knew and you acknowledged in
11 your testimony last week that views would be impaired.

12 If that is an accurate assessment of what this
13 data demonstrates, then how is your special valuation --
14 your before value for any of the units in the Waterfront
15 Landings condominium fair and equitable and accurate?

16 MR. FILIPINI: And I'll object to that,
17 Mr. Hearing Examiner. It is argumentative. It's
18 mischaracterizing prior testimony testifying by the
19 witness and assuming facts not in evidence.

20 HEARING EXAMINER VANCIL: Sustained.

21 BY MR. SCHNEIDER:

22 Q. Mr. Macaulay, this is an exhibit that we
23 submitted. It is an e-mail from a board member of
24 Waterfront Landings, Brian Frederick, It's Exhibit 9,
25 that he sent to you in January of 2018.

1 Do you recall receiving this e-mail?

2 A. Vaguely, it's been some time ago. But I know
3 that we did meet with the Waterfront Landings people and
4 that they did have some correspondence with us.

5 Q. In fact, you again called out -- and emphasized
6 the fact that you met with him in your testimony on
7 Friday; correct?

8 A. Yes.

9 Q. So I've highlighted in yellow some of the
10 paragraphs from Mr. Frederick's e-mail. And I want you
11 to say whether you disagree with anything that he said
12 in these highlighted paragraphs.

13 So is -- paragraph A, he talks about the
14 elevated grade destroying views of the waterfront and
15 cutting off current direct access to the market downtown
16 and waterfront south of us.

17 Is that an accurate statement?

18 A. We tried to consider every before condition we
19 could. We did meet with them and they did provide their
20 opinion as to how things would be impacted by -- by the
21 project. So we try to consider every relevant factor we
22 could.

23 Q. Mr. Macaulay, I didn't ask you what you
24 considered. I asked you whether this is an accurate
25 statement or not.

1 A. Well, I don't know if it's exactly accurate or
2 not. It's been a number of years since I've looked at
3 it. Just, you know, sitting here and trying to read it,
4 saying that it's absolutely accurate or not, I can't
5 say.

6 Q. All right. Let me ask the question differently.
7 Can you identify anything in -- in paragraph A
8 that you believe is inaccurate?

9 A. Well, again, sitting here and just looking at it
10 and trying to cast judgment on that statement, we --
11 again, we try to consider every relevant market factor
12 we could due to the Pine Street connector and the
13 overhead walk view amenity obstructions.

14 Q. Again, I'm not asking what you considered. I'm
15 asking you whether you think there's anything inaccurate
16 in that. And I assume I'll get an objection that it's
17 asked and answered if I keep going. But I submit you
18 haven't answer the question.

19 How about B? Is there anything in B that you
20 believe is inaccurate?

21 A. Again, sitting here, sir, I'm not trying to be
22 disrespectful or anything, I just -- I haven't had time
23 to review this. It's been a number of years since I
24 looked at it.

25 Again, we tried to consider every relevant

1 factor we could. We had this letter. I would have
2 given this to Ms. Hamel for her review in doing the
3 analysis, as much as possible, we would have considered
4 these elements.

5 Q. Paragraph C, is there anything in it that you
6 believe is inaccurate?

7 A. Again, we would have had this information and
8 looked at it. Just sitting here right now I can't --
9 can't really answer that.

10 Q. Paragraph D, is there anything in it that you
11 think is inaccurate?

12 A. Same answer for both D and E.

13 Q. And paragraph E, anything in it that you think
14 is inaccurate?

15 A. Same answer.

16 Q. Okay. So is it -- isn't it fair to say that all
17 of these impacts described by Mr. Frederick on behalf of
18 the condominium association, which include not merely
19 view blockage, but noise and pollution from vehicles and
20 loss of privacy, none of that is reflected in a single
21 valuation of a single unit of the condominium that you
22 prepared?

23 A. Well, I can't answer that. We had sales of
24 condominium units that you showed. Again, we tried to
25 reflect as best we could the market.

1 Q. Mr. Macaulay, I'm asking you a specific
2 question. And you haven't identified -- you keep
3 referring to the market and sales data, but you haven't
4 identified any sales data that would show that you took
5 any of this into account?

6 A. There's 5,000-some condominium units within the
7 LID. I can't sit here and remember a specific unit or a
8 specific sale within a specific condo unit and answer
9 that -- that kind of question in detail just due to the
10 sheer -- sheer number of properties.

11 Q. This is another exhibit. It's from the City's
12 documents. It's valuation page A-63 and followed by
13 A-64. And this is -- showing -- looking from sort of an
14 aerial view, looking from the south towards the north,
15 do you see the Waterfront Landings Condominium there on
16 the other side of the new Pine Street Connector?

17 A. Yes.

18 Q. How many city blocks does the condominium cover?

19 A. I think it's a couple blocks.

20 Q. I submit it's three city blocks.

21 A. Okay.

22 Q. And as the diagrams that we have looked at
23 depict, you didn't take into account distance from the
24 Waterfront LID. In other words, the units further to
25 the north you gave the same three percent increase in

1 value to as the southern-most units; correct?

2 A. That would have been our estimate of looking at
3 the before and after, what a probable increase for a
4 buyer/seller in the market would consider for that --
5 that well-located property.

6 Q. Okay. Well, you just referred to it as a
7 well-located property. So this is the next picture.
8 A-64 is part of the same exhibit. And this shows the
9 after condition with the LID; correct?

10 A. Yes.

11 Q. It shows the Overlook Walk and the Aquarium
12 Ocean Pavilion with the Overlook Walk comprising the
13 roof of the Pavilion?

14 A. Yes.

15 Q. And can you see a single improvement from the
16 LID in this City rendering that increases the value that
17 provides a benefit to the condominium as opposed to a
18 detriment?

19 A. Well, I think the proximity to a unique amenity
20 like that, the -- the increase connectivity to the
21 downtown to the Pike-Pine corridor, to the jogging
22 trails along the Promenade, to the walking trails along
23 the Promenade, would be very desirable for a condominium
24 project like that.

25 Q. So you just referred to increased connectivity

1 to the market, Mr. Macaulay. But in fact these
2 improvements substantially decrease the ease with which
3 residents of the condominium can get to the market, do
4 they not?

5 A. I disagree with you. I think they very much
6 enhance and make the access to the market much easier.
7 Coming and going from the Pike-Pine corridor.

8 Q. So describe for us, please, how the residence in
9 The Viaggio, which is the southern-most building, the
10 one with 22 units whose views are going to be blocked by
11 both the Pine Street Connector and the Overlook Walk.

12 Describe to us the path they take to once the
13 improvements are in place to get to the Pike Place
14 Market.

15 A. Well, again, I would refer to the addendum
16 report there. There is a before-and-after exhibit that
17 shows the -- the access points that are available in the
18 after situation to get through that area compared to the
19 before.

20 Q. And, Mr. Macaulay, I've asked you to describe
21 for us how we get from The Viaggio to the market. Can
22 you do so or not?

23 A. Well, again, I would -- I would defer to the
24 addenda. I can't, verbatim, give examples. There's are
25 a number of different avenues they can take. And

1 sitting here I can't describe them all; that's why I
2 referred you to the addenda.

3 Q. Well, I submit that a resident of The Viaggio
4 can now walk out the front of the building, turn left,
5 and walk directly over to the hill climb that takes one
6 up to the market.

7 And once these improvements in quotes are in
8 place, that same resident will have to come out of their
9 building, they can't turn to the left because the Pine
10 Street Connector will be in the way. They have to turn
11 to the right. They have to walk hundreds of feet to the
12 north, then they have to cross over to the other side of
13 the street, the Pine Street Connector, and then walk
14 back. Adding minutes of travel time that puts them on,
15 you know -- puts them further away from the market. Not
16 only then the fact they have to travel north, but they
17 have to travel west.

18 So again, out --

19 HEARING EXAMINER VANCIL: This argument and
20 not testimony --

21 BY MR. SCHNEIDER:

22 Q. Let me finish, please. How is that
23 consistent --

24 HEARING EXAMINER VANCIL: No, not if you're
25 going to give us a whole story before it; that's not a

1 hypothetical. That's argument.

2 MR. SCHNEIDER: I apologize. I thought I
3 was being interrupted by the witness. I apologize, Mr.
4 Examiner.

5 HEARING EXAMINER VANCIL: That's all right,
6 Mr. Schneider. I understand that this is an unusual
7 form. I would just ask if you could try to tighten
8 up your -- if you're going to present a hypothetical, if
9 you could please tighten it up. It sounds like argument
10 to me.

11 I think -- it's hard to parse out between a
12 hypothetical and your -- your client's perspective of --
13 of what's going on.

14 MR. SCHNEIDER: And I apologize.

15 HEARING EXAMINER VANCIL: I certainly invite
16 you to include that in closing briefing.

17 BY MR. SCHNEIDER:

18 Q. And I apologize, but since the witness
19 disclaimed any knowledge about the access route even
20 though he testified that it would be enhanced, I felt I
21 needed to describe it in order to ask the follow-up
22 question, which was going to be simply, how is that
23 circuitous route consistent with your statement that
24 access would be enhanced.

25 A. In the before condition that Pike Street

1 connector is going to be in place. So the access from
2 the units considered both in the before and after. I
3 look at the Overlook Walk as being a significant unique
4 amenity they'll have to cross the street anyway. They
5 can go right up the ramp and right into Pike Place
6 Market.

7 There, again, if you're referring to the
8 addenda, there's different access points that have to
9 get to downtown the Pike-Pine corridors downtown that
10 don't exist in the before.

11 Q. Okay. So if I understand what you just said,
12 you're treating the -- the Overlook Walk as something
13 that enhances value to the condominiums.

14 But you testified last Friday that you recognize
15 it blocks views from those south-facing units. So how
16 is the view blockage reflected in your assessment of the
17 before value or the after value, either one?

18 A. Perhaps there could be some off-setting
19 conditions there. Again, we could go back and talk to
20 Ms. Hamel. But in all the studies we looked at in
21 other -- in other cities that this being close proximity
22 to \$346 million infrastructure project that provides a
23 lot of open space and walkways and bike lanes that's
24 right next to your condominium unit or project complex,
25 we look at this being a positive amenity in the market

1 as the market is reflected by other studies and other
2 cities.

3 Q. Thank you.

4 A. You are definitely -- definitely improved in the
5 after situation.

6 Q. Well, again, Mr. Macaulay, I refer you to
7 Mr. Brian Frederick's e-mail where he describes the
8 after effects of this project. You weren't able during
9 my questions to identify anything you disagreed in that
10 e-mail, and I suggest that e-mail refutes everything you
11 just said.

12 So I want to now turn to Exhibit 1, our first
13 exhibit. And just to make it clear where all this data
14 came from. So you had this Mr. Macaulay, this is the
15 spreadsheet that the chair of the condominium
16 association put together that reflects your before
17 values, your after values, and calculates the square
18 footage per unit. So those exhibits with floor plates
19 and colored floor plates, that I depicted to you are all
20 based on this spreadsheet.

21 And, again, I submit they show you increased the
22 value of units based on views. You didn't take into
23 account the actual use of the units. You gave higher
24 values to higher floored units that have conflicted
25 views than you did to lower floor units with expansive

1 views. You didn't discount the -- the view blockage
2 even though you testified last week that you did based
3 on market data that you can't identify.

4 And if the before values are -- failed to
5 take -- assuming, again, the hypothetical that what I
6 presented to you accurately reflects your data. If the
7 before values are inaccurate, then -- and you uniformly
8 applied a 3 percent special valuation to all of those
9 units, then the after values and the special assessments
10 are also inaccurate; are they not?

11 MR. FILIPINI: And I would object to the
12 testimony prior -- immediately prior to showing
13 Exhibit 1 and at the start of it, as Mr. Schneider was
14 testifying and it was argumentative. I do understand
15 that now there's a question pending.

16 But -- if -- I would move to strike the
17 testimony that was -- had no question and was
18 argumentative.

19 HEARING EXAMINER VANCIL: All right.
20 Agreed. It was argumentative. There was argument
21 presented. It will be stricken.

22 There's still a question on the table that's
23 valid. You do need to respond to that, Mr. Macaulay.

24 THE WITNESS: Sure.

25 As far as any relevance between the before

1 and after, again, I would need to go back through and
2 review that and see -- and see the reason why, if what
3 you're saying is the case -- is the case and what --
4 what our -- what our reasoning was for that.

5 BY MR. SCHNEIDER:

6 Q. Mr. Macaulay, I specifically said it was a
7 hypothetical.

8 Assuming that the before values are inaccurate
9 in all the ways that we've been talking about, then the
10 after values and the special assessment are also
11 inaccurate; are they not?

12 A. No. I don't know that you're hypothetical is --
13 is -- is true. And I'm not going to say that it is
14 until I've had time to -- to review it and to find out
15 the reasons behind our -- our logic and reasoning for
16 looking at some of those units like we did.

17 Q. And, Mr. Macaulay, I'm not asking you if the
18 hypothetical is true or not. It's a hypothetical.

19 Assuming it's true -- it is true, then your
20 values are wrong for many, many, many units within this
21 condominium; isn't that an accurate statement?

22 A. No, that would be your opinion, not mine.

23 Have you done any appraisal work on the
24 individual units?

25 Q. Mr. Macaulay, I'm asking you what you are saying

1 and you are refusing to answer the question?

2 A. I don't think it's a valid question. I can't
3 answer that hypothetical question because you are --

4 HEARING EXAMINER VANCIL: Mr. Macaulay, you
5 need to reserve objections to your representative. And
6 please do not ask questions back of the -- the
7 representative that's asking you questions.

8 If you don't have an answer, that's fair.
9 However, you're going to handle that. You arguing back
10 is absolutely not how this proceeds.

11 THE WITNESS: Sorry, Mr. Hearing Examiner.

12 BY MR. SCHNEIDER:

13 Q. Do you have any further answer to my question,
14 Mr. Macaulay?

15 A. No, I don't.

16 Q. How many units are in the Waterfront Landings
17 Condominium?

18 A. I don't recall specifically.

19 Q. Do you know how many units you increased the
20 value of based on your assumptions about use?

21 A. Not sitting here, no.

22 Q. Okay. I'm going to suggest to you that there
23 are 232 units altogether in the Waterfront Landings
24 Condominium, and you can confirm that when you look at
25 this chart that summarizes your data.

1 And I'm going to submit to you that the units
2 that -- the southern-facing units where you did not
3 discount value based on views, when added to all of the
4 units where you made incorrect assumptions about views
5 and all of the units where you didn't take into account
6 the fact that they're going to be street trees impacting
7 views adds up to more than 150 of the 232 units where
8 your assumptions about value are simply wrong because of
9 the information about the assumptions you made without
10 individualizing your valuation of any particular unit.

11 If that is correct, is this a fair, equitable,
12 and accurate basis for the special valuation that you
13 determined?

14 MR. FILIPINI: And I'll object as
15 argumentative, assumes facts not in evidence, and
16 mischaracterizes Mr. Macaulay's prior answers.

17 HEARING EXAMINER VANCIL: Mr. Schneider, you
18 are taking us out on a limb with hypotheticals. If it's
19 possible for you to start to trim that into something
20 you can be presenting as part of your closing briefing.
21 I'll allow this question. It is presented as a
22 hypothetical. I have allowed it. But we're getting a
23 little thin on that. You present -- having to present
24 your argument through the witness that doesn't
25 necessarily have answers.

1 MR. SCHNEIDER: Thank you, Mr. Examiner.

2 I'm -- we don't need to pursue this any
3 further. I'm willing to rest here.

4 I would ask that my exhibits, which I think
5 are 1 through 14 be admitted into evidence.

6 HEARING EXAMINER VANCIL: Is there any
7 objection to Exhibits 1 -- any Exhibit 1 through 4?
8 Exhibits 1 to 14.

9 MR. FILIPINI: I'm sorry. Mr. Hearing
10 Examiner, I just had a voir dire question for
11 Mr. Schneider on -- on just a few, if I could.

12 HEARING EXAMINER VANCIL: Okay. Well,
13 let's -- which ones do you have voir dire on?

14 MR. FILIPINI: Yes, 1, 14, 3, 4 and 5. 1,
15 14, 3, 4, and. I'm sorry, 1, 14, 2, 3, 4, and 5.

16 HEARING EXAMINER VANCIL: 1 through 5 and
17 14; right?

18 MR. FILIPINI: Yes.

19 HEARING EXAMINER VANCIL: Any objection to
20 the remainder?

21 Exhibits 6 through 13 are admitted.

22 Do you have a question?

23 MR. FILIPINI: I do.

24 Mr. Schneider, for Exhibit 1, the
25 spreadsheet that's on the screen, is that something that

1 came -- I just didn't catch it.

2 Did this come from Mr. Macaulay's or ABS
3 backup files?

4 MR. SCHNEIDER: This was prepared by the
5 chair of the condominium board incorporating information
6 from his files into a single spreadsheet for the
7 232 units in the condominium.

8 MR. FILIPINI: Okay. And then for Exhibit 2
9 through -- 2, 3, 4, and 5, which were -- it is floor
10 plans. If you could just tell us what was the source of
11 the -- you had a legend on the bottom that had -- I
12 believe on each of them that had assessment dollar per
13 square foot, just what the source was.

14 MR. SCHNEIDER: The source was Exhibit 1.
15 If you look at Exhibit 1, you will see that it
16 calculates the value per square foot based on
17 Mr. Macaulay's valuation. Those values.

18 If you look at Exhibit 5, it has the legend
19 that has all five valuations in the lower right-hand
20 corner.

21 So the values per square foot are in
22 Exhibit 1, and then they're illustrated in color in
23 Exhibits 2 through 5 as -- as illustrated in the legend
24 on the bottom of Exhibit 5.

25 MR. FILIPINI: And for Exhibit 14. I

1 apologize. I believe you identified that was from
2 Mr. Macaulay's backup file.

3 MR. SCHNEIDER: Yes.

4 MR. FILIPINI: And on Exhibit 1, if -- if
5 you can tell me -- and I'm asking because it would
6 determine whether or not I object to its admission.

7 Are you planning to submit additional
8 information describing the columns here, or how it was
9 calculated?

10 MR. SCHNEIDER: I wasn't planning on it,
11 since I think it speaks for itself. But if you have a
12 question, I can certainly try and answer it.

13 I believe all the data. The calculations in
14 here of square-footage are just that, calculations, but
15 they're calculations from Mr. Macaulay's data. And
16 that's how the square footages are arrived at.

17 MR. FILIPINI: Okay. I will, for the
18 record, make an objection to Exhibits 1 and 2 through 5,
19 just for lack of foundation through this witness.

20 And I believe it would be helpful at least
21 for one to have additional information as to how it was
22 compiled. No objection on Exhibit 14.

23 HEARING EXAMINER VANCIL: All right. Noting
24 City's objection, Exhibits 1 to 5 and 14 are also
25 admitted. Again, recognizing that, essentially,

1 objectors have no other opportunity but to get items in
2 through this witness at this time. And they need to be
3 able to ask questions in the context of their case when
4 they could have called the appraiser at an earlier date.

5 And Mr. Schneider, that wraps up your
6 cross; is that correct?

7 MR. SCHNEIDER: Yes, it does. Thank you.

8 THE COURT: Thank you. Our next objector
9 listed is Mr. Moses.

10 Mr. Moses, do you have any procedural
11 questions or items we need to address as you get
12 started?

13 We will cut to lunch, but I want to check if
14 there's anything we need to address for a procedural
15 matter before -- when we come back.

16 I'm not sure if Mr. Moses is having a
17 problem with his microphone or has stepped away;
18 regardless, he will be next in line when we come back
19 from our lunch break. We will take a break for lunch
20 and return at 1:15 with Mr. Moses on. Thank you.

21 (A luncheon recess was taken
22 from 12:04 p.m. to 1:19 p.m.)

23

24 AFTERNOON SESSION

25

1 HEARING EXAMINER VANCIL: Return to the
2 record with Mr. Macaulay on cross.

3 Mr. Moses, objector.

4 Just for the record, can you identify your
5 case numbers?

6 MR. MOSES: Case No. CWF 0375.

7 HEARING EXAMINER VANCIL: Thank you.

8 MR. MOSES: And I have three new exhibits,
9 which will be 375, 5, 6, and 7.

10 HEARING EXAMINER VANCIL: Okay. Your
11 witness.

12 CROSS-EXAMINATION

13 BY MR. MOSES:

14 Q. Mr. Macaulay, in October of 2016, when you were
15 engaged for the feasibility study, were all six of the
16 current LID projects kind of presented to you as a
17 package at that time for a valuation?

18 A. Yeah, to be clear. When we were first hired, we
19 were hired to do the benefit study; and then the scope
20 changed to a feasibility study. But, yes, we've always
21 looked at it as one, one project.

22 Q. Okay. In both your preliminary and your final
23 study, you appraise the two hypothetical scenarios where
24 certain improvements are described as completed.

25 Can you be a little bit clearer for me, does

1 completed mean on the completion date or is it sometime
2 after that?

3 A. We're estimating market value as of our
4 valuation date, assuming the hypothetical conditions are
5 in place as of October 1, 2019. Both in the before and
6 in the after.

7 Q. So my question is, are they just in place; that
8 is, they were just completed on that date? Or were they
9 completed a year or two, whatever, prior to that?

10 A. It would just be completed -- that would be the
11 valuation date that we're reflecting the market
12 perception of value.

13 Q. And your renderings are consistent with that
14 date? That --

15 A. That would be --

16 Q. The renderings are of both hypotheticals at the
17 time they were completed? Not sometime later than that.

18 A. That would be the intention of the renderings,
19 yes.

20 Q. Okay. For this LID you've stated several times
21 you valued the improvements as a single entity.

22 Could you have valued them as six separate
23 projects?

24 A. Yes. I mean, that would be -- that would --

25 Q. And if you had done that, would you have

1 theoretically at least come up with the same answer you
2 would have if you valuated them in aggregate?

3 A. Yeah. It's difficult to answer. I mean, it's
4 just not -- not something we did. I don't know if -- I
5 don't know if they would be -- be exact or -- or if
6 there would be differences or not.

7 Q. So if we have six projects all added together,
8 they have the before condition A and we have the same
9 six projects that all have the same after conditions as
10 the end result, so the total before and the total after
11 is the same.

12 If we evaluated that in pieces, six different
13 pieces, would we come up with a different result?

14 A. Well, again, I mean, it's not something I did.
15 I really can't answer that. That we looked at it as
16 one -- as one entity.

17 Q. It is a theoretical question. Should you come
18 up with the same answer if you value it piece by
19 piece?

20 A. I don't know. It would depend -- it would
21 depend on the assumptions you're making. I mean, are
22 all the elements done at the same time?

23 Q. Yes, all done at the same time --

24 A. (Audio disruption).

25 Q. All the other assumptions are all identical,

1 it's just we evaluated (verbatim) the special benefits
2 of each of these pieces separately?

3 A. Well, then again, I think, you know, the market
4 would look at it and I would look at it as if they were
5 all being done at the same time, then you would be
6 looking at it as one continuous entity and your -- your
7 special benefit would be the same.

8 Q. Okay. What I'm trying to get to here is that
9 you've got a very diverse set of amenities. You've got
10 amenities spread over a huge distance.

11 If you had parceled those out and tried to
12 assess the benefit of each one to a particular round,
13 you do -- drew halos around each of those benefits and
14 calculated the special benefit and then added it all up,
15 wouldn't that give you a more accurate analysis of the
16 benefits?

17 A. I don't think so. And it's not -- it's not what
18 we did. I mean, I really can't answer that. It's not
19 something we considered.

20 Q. Okay. So the -- it's fair to say that in your
21 opinion, then, the sum of the individual amenities is
22 not equal to the total of the amenities?

23 A. What I'm saying is that we didn't pull the
24 elements apart. We looked at it as one entity. And if
25 you're asking me, would the benefit be different if we

1 pulled all the elements apart and we valued them
2 separately, I can't -- I can't answer that.

3 Q. I'm not asking you if the benefit would be
4 different, I'm asking if your valuation would be
5 different?

6 A. I don't know. That's not something --

7 Q. Okay. Let's leave that point, then.

8 Okay. I'd like to start into the valuation,
9 then. I will move to Exhibit CWF 375 -- oh, I'm going
10 to skip that one. That's the -- well, I'll ask one
11 question on this, because it's here.

12 375, Exhibit 7, this is RCW 35.43.50. You've
13 already seen this one, so I'm not going to put it back
14 up on the page unless you need me to.

15 But I just wanted to know, to the best of your
16 knowledge, has the City Council made the finding
17 described in this statute?

18 MR. FILIPINI: I'll object. That calls for
19 a legal conclusion.

20 MR. MOSES: I'm not asking for a legal
21 conclusion. I'm asking him, to the best of his
22 knowledge, does he know if a finding been made. It's a
23 matter of fact.

24 HEARING EXAMINER VANCIL: Just a question
25 about procedure regarding the City Council. Overruled.

1 MR. MOSES: Okay.

2 HEARING EXAMINER VANCIL: So, Mr. Macaulay,
3 you can answer the question to the best of your ability?

4 THE WITNESS: Yeah, I do not know. I assume
5 so. But I do not know for a fact.

6 BY MR. MOSES:

7 Q. Okay. Then let's go to 375, Exhibit 6. The
8 condo letter by Mary Hamel. I'll try to share a screen
9 here. I'm going to go -- the first two bullets here.
10 The first three bullets here, kind of recite the
11 documents that were gathered for your valuation. The
12 last two bullets recite kind of how you arrived at
13 values. And if I look at the fourth bullet --

14 HEARING EXAMINER VANCIL: Mr. Moses, there's
15 nothing showing. You haven't shared your screen yet.

16 BY MR. MOSES:

17 Q. Oh, I'm sorry. I apologize. I'll back up.

18 These first three bullets are basically a
19 recitation of the documentation you gathered.

20 The fourth bullet, right here, market value
21 conclusions without LID, actually is how you calculated,
22 or how Mary Hamel calculated the values.

23 And then you look at -- well, in that fourth
24 bullet, is there any indication that she made an
25 adjustment to her calculation of the recorded values in

1 sales units for the before condition?

2 A. Well, you can see in the first -- in the first
3 sentence, she talks about the before condition.

4 Q. No, she doesn't.

5 A. She doesn't specifically say that she's making
6 adjustments. But I mean, if you read the report, the --
7 it's clear to state what basis we're forming the before
8 conditions on.

9 Q. Okay. This is her letter. This is her
10 documentation. Maybe it's a better way to ask you this.

11 Is this your USPAP 5 model?

12 A. Say that again, please, Mr. Moses?

13 Q. USPAP 5 requires you to have a model for a mass
14 valuation. And is this your model for a mass valuation?

15 A. A parcel-by-parcel analysis model.

16 Q. Then it is not a mass valuation?

17 A. It's one way of doing a mass valuation is doing
18 it on a parcel-by-parcel basis like we've done.

19 Q. Okay. I'm going to go back to this line again.

20 Is there any mention in the third bullet that
21 she has included any of the research from the market
22 studies, et cetera, that she mentions in bullet five for
23 the after appraisal in the before appraisal? She
24 specifically mentions them afterwards. She doesn't
25 mention them at all before.

1 A. She just was purely writing this letter,
2 Mr. Moses, for information purposes. She's not going
3 into a lot of detail on specific issues. It's just to
4 augment the report or try to inform a condominium owner,
5 like yourself, the aspects and what she looked at.

6 Q. Can you direct me to the specific information,
7 then, about how she did this in your files?

8 A. They're summarized on the analysis sheets in her
9 before and after -- our before-and-after conclusions.
10 We don't specific -- as I've said before, we don't have
11 specific worksheets on each individual condo just due to
12 the sheer magnitude of the condominium units.

13 Q. Okay. I'm going to -- I'm going to hold off on
14 that for a moment, because I'm going to ask you for that
15 analysis sheet a little later.

16 So let's actually move from this Exhibit, then,
17 to -- let's see here. Let's go to Exhibit C-17. I just
18 did the wrong thing here. I'm sorry.

19 Okay. Do you have City 17 up in front of you?

20 A. Yes.

21 Q. Okay. Go to page 97. Now, this is a bit
22 difficult to read, and I was hoping you would actually
23 be using the documents that you have as opposed to
24 trying to share screen here.

25 But I'm going to go down to -- let's see here.

1 I'm going to see if I can make this larger. Right here.

2 This is -- where it says "E035" in the first line.

3 Do you see that?

4 A. Yes.

5 Q. Okay. And can you describe, just briefly, what
6 this -- I know you've described all these columns across
7 the top. But this is a valuation of a particular
8 condominium, 1521 Second Avenue; is that correct?

9 A. Yes.

10 Q. So if we scroll across here in -- over here,
11 "condominium," "condominium," we get over here to the
12 "market value before LID" and the "market value with
13 LID," and then a "special benefit percentage."

14 And in this first line, if you look back, you'll
15 see there's no taxpayer. Taxpayer is empty.

16 We come over here, and there's no benefit
17 before. There's no benefit after. But there's a
18 special benefit change of 2.7 percent.

19 Now, was that benefit calculated -- that number
20 calculated as a before-and-after number when there
21 aren't any before-and-after numbers?

22 A. Yeah, I think that's just a typo. The way the
23 assessor is set up, they have a master -- a master tax
24 account number, and that's what you're referring to
25 there. And that 2 percent there would have just been a

1 typo that got into the spreadsheet.

2 Q. That 2.7 percent is your number. That's your
3 special benefit percentage?

4 A. That's the difference between the before and
5 after, yes.

6 Q. But there's no before and no after.

7 A. Yeah, as I said, Mr. Moses, that's a mass -- if
8 you go through all the condominiums in here, they have a
9 master account number, and there is no valuation for the
10 master account number, because it's just summarizing the
11 whole -- how many -- how many square feet of land area.

12 I think it shows, like, the total cumulative
13 area of -- of building that's in the condo. So it's a
14 summary of the whole condominium project. So it's not a
15 breakout of all the individual units. And we're valuing
16 the individual units and so that's why -- why that
17 column is like it is.

18 Q. It's an interesting typo. It occurs for every
19 condominium. And every residential unit in that
20 condominium below there are on a parcel-by-parcel
21 analysis is increased by 2.7 percent.

22 Is there any reason why I wouldn't assume that
23 you imputed that 2.7 percent to every single one of
24 those units?

25 A. Well, we're looking at the condominium units in

1 the before and the after. And looking at their -- you
2 know, their location change in the market, and we're
3 recognizing that they're fractional ownerships, there's
4 part of a larger ownership. So we felt it best just to
5 be roughly proportionate and show that -- that it's a
6 good indication to show what the before and after is,
7 that (audio disruption) location because you are a
8 fractional ownerships within that location that you
9 would have a similar change -- change in value from --
10 from the before and the after. So that -- that's why it
11 was reflected that way.

12 Q. So as we step through this, then, we've got Mary
13 Hamel who didn't mention that she used any adjustments
14 to current values to get to her before value, and that's
15 just because she forgot to mention it. And then we get
16 here and we find this 2.7 percent in a header,
17 propagated throughout all of the properties below it,
18 and that's a typo; is that correct?

19 A. Well, the -- the master -- the master number
20 doesn't have any values reflected on it. So we
21 shouldn't have had a 2.7 figure there.

22 Q. Okay. So then you mentioned an analysis sheet.
23 In the files that you provided, are there any
24 analysis sheets for this condo?

25 A. No, again, because of the 5,000 or so

1 condominium units, we didn't do individual sheets. We
2 have sufficient information in our files if we were
3 asked to prepare an appraisal report on a specific unit,
4 we could do that.

5 Q. I see. So when you made this valuation, this
6 2.7 percent valuation, right, for which you have no
7 analysis sheets, if you add up the special benefit for
8 1521. Obviously, you can't do it in front of you, so
9 I'll give you a number and you can tell me if it is
10 reasonable.

11 It's about nine and a half million dollars.

12 A. Okay.

13 Q. So if I look at the commercial buildings that
14 you evaluated (verbatim) yesterday, Edgewater, the
15 Maritime Building. You had a consultant for one.
16 You've got spreadsheets. You've got all kinds of
17 analysis. The total value of those two buildings -- and
18 you can correct me if I'm wrong, is about \$9.2 million.

19 So for that -- those two decisions, you've got
20 all kinds of documentation, and for this decision, which
21 is bigger than both of them combined, you have no
22 documentation; is that correct?

23 A. We have sufficient information in our files to
24 prepare appraisal reports on each of those individual
25 condo units if we were requested to do so. And that's

1 what we would be required by USPAP to have.

2 Q. Okay. Let me move down here, then. In reality,
3 when I look at this all these percentages are about the
4 same. There are about 50 condominiums.

5 You really only did 50 valuations, not 5,000
6 valuations.

7 A. Well, each condominium unit --

8 Q. I'm sorry, that wasn't question.

9 HEARING EXAMINER VANCIL: You do need to
10 phrase things as questions. I understand that you've
11 got argument. You're going to have a chance to put that
12 on in your briefing.

13 Everyone who thinks they're getting points
14 by giving argument today is not getting them. I don't
15 allocate that today. I'm not listening to your
16 argument. I'm waiting for evidence to come in. I
17 anxiously await your arguments when that time is due,
18 and I will read them in due course.

19 BY MR. MOSES:

20 Q. It appears to me -- or it would appear to a
21 reader, would it not, that there are only really 50
22 calculations here, on its face?

23 A. No. If you look, there are 5,000 or so
24 individual units, and all of them have different
25 before-and-after valuations. And we're looking at a

1 specific location and recognizing the fractional
2 ownership -- partial ownership interest --

3 Q. But if I -- if I pick any one of these
4 condominiums, every single unit in that condominium has
5 the same special benefit percentage?

6 A. That's correct.

7 Q. Okay. We'll move on. So I guess that's what I
8 come down to. In the material you've provided to us, is
9 there any indication that you've gone through some of
10 these properties, then, and actually performed a full
11 valuation to generate that percentage?

12 A. Yeah, again. We have sufficient information in
13 our file where if we're asked to prepare an appraisal
14 report on property, we have sufficient information to do
15 so. And that's -- that's in our backup -- that would be
16 in our backup file.

17 Q. But you reached a conclusion -- but did you
18 reach a conclusion without that documentation?

19 A. No, I mean that documentation is a part of our
20 file. It is part of our background. It is part of our
21 analysis.

22 Q. I understand. But you have certain
23 characteristics of the property that is described in the
24 King County data that you say you used, and you're
25 getting from the characteristics of that property to a

1 value for that property.

2 And is there any evidence in these files of how
3 you did that? Other than a generalized description that
4 we -- we consider it a bunch of factors?

5 A. Yeah, we didn't -- we didn't go in and do
6 individual worksheets on -- on each of the condo units
7 particularly.

8 Q. Okay. I'm going to go jumping around a bit in
9 these topics having been covered. I'm going to go to --
10 back in my files here -- Opinion 32. I've got to figure
11 out which exhibit that is. Apologize for being slow.

12 This states that -- "ad valorem" means
13 "according to value."

14 Is your LID assessment or valuation in according
15 to value assessment?

16 A. No, it's not based on an ad valorem tax
17 appraisal type -- type of analysis. It's based on the
18 LID statutes. So they're rendering an advisory opinion,
19 which isn't part of the USPAP on ad valorem taxation,
20 which isn't applicable to the LID statutes or the type
21 of work that we do.

22 Q. If you have a tax statute that specifies the
23 taxes based on fair market value and you have a LID
24 standard that is based on fair market value, do you
25 consider the tax standard to be ad valorem?

1 A. Yeah, Mr. Moses, we're not doing a tax
2 valuation. We're doing an assessment based on LID
3 statutes. So it's an assessment, which is a lien on
4 property, not a tax.

5 So our valuation is based on a certain set of
6 criteria based on the LID statutes than -- than maybe an
7 assessor looks at.

8 Q. Does this opinion go to the uses of the
9 valuation? This just goes to the valuation, at least it
10 appears to me.

11 A. Well, again, it's an advisory opinion, which
12 isn't -- isn't part of USPAP. An advisory opinion is
13 not part of USPAP and it's addressing ad valorem
14 taxation issues.

15 So the intent of the advisory opinion is to
16 address specific issues, and this specific issue isn't
17 dealing with local improvement district special benefit
18 analysis. It's dealing with tax appraisal.

19 Q. So fundamentally, then, for a tax based on fair
20 market value and a LID based on fair market value, what
21 is the fundamental difference between the mass appraisal
22 standards that would apply?

23 A. Well, I mean, I'm recognizing that I'm complying
24 with Standards 5 and 6, which -- which are all I need to
25 comply with.

1 Standards 1 and 2 deal with actual report
2 writing.

3 So if I were to write an actual report on your
4 condominium unit, I would have to comply to Standards 1
5 and 2.

6 I don't, because I'm only applying USPAP to
7 Standards 5 and 6, which deal with mass appraisal.

8 Q. I'm sorry, I didn't ask you really about the
9 standards.

10 I was asking you if there was a fundamental
11 difference in the valuation process between a tax
12 valuation based on fair market value and a LID valuation
13 based on fair market value.

14 In the actual valuation process you perform, are
15 there any fundamental differences?

16 A. I don't know. I've never done a taxation for --
17 I've never been an assessor or done that type of
18 analysis, so I do not know.

19 Q. Are those appraisals subject to the same mass
20 appraisal standards that you are?

21 A. They -- they need to comply with USPAP. If
22 they're doing -- if they're doing an appraisal that's
23 subject to USPAP. I -- I need -- I know I need -- doing
24 in my LID work I need to do an appraisal that's
25 compliant with USPAP, and that's what I've done.

1 Q. Okay. At this point I'm going to move to John
2 Crompton. And I know this has been beat up a little
3 bit, so I'll try to pick up where Ms. Lin left off
4 rather than -- okay. I want to do a quick summary here
5 and you can tell me if I'm correct.

6 When we left off, Ms. Lin had basically said
7 that you considered the Overlook Walk, Pier 58, of the
8 Promenade as park amenities. And you agreed to that and
9 that was confirmed in your deposition, I believe.

10 And there's been a lot of testimony about your
11 translation of the distance guidelines on Dr. Crompton.

12 After hearing it, do you agree that you got the
13 distance calculations that he specified wrong?

14 A. No, we're not -- we're using his information for
15 background purposes, Mr. Moses. We're not -- we're not
16 going verbatim on what -- what Dr. Crompton said as far
17 as distance goes and that type of thing.

18 Q. Even though you actually cited his numbers in
19 your report; is that correct?

20 A. Yes, we cited them for informational purposes.

21 If you look in our background information,
22 there's also a number of other studies. A 2011 study
23 done by the Trust for Public Lands that -- that reflects
24 proximity distances from 500 to 2,000 feet, and it's
25 based on the -- the Seattle market area.

1 There's also a number of other studies dealing
2 with various open space studies.

3 Q. Okay. Actually, I think I have an exhibit for
4 the Trust of Public Lands. Let's go look at it. That's
5 233. Exhibit 124.

6 Okay. Is that up in front of you?

7 A. Yes.

8 Q. Okay. Let me scroll down through it here. Now,
9 can you show me in here where it states they went to
10 2,000 feet? I'll move around in the article, however
11 you want.

12 A. Yeah, go down to where they -- they start
13 talking about the -- the valuation of -- I think they go
14 through -- first, they go through -- yeah, there you go.

15 So they -- if you read through there, they talk
16 about a 500 to -- yeah, so right -- the second sentence
17 there, "It's been documented up to 2,000 feet from a
18 large park."

19 And then they -- they study -- then they say
20 studies most find within 500 feet. So they're --
21 they're saying up to 2,000 feet but they're -- to be
22 conservative, they go on that they're just using the
23 shorter distance. And then they go to talk about the
24 factors involved in that.

25 Q. Okay. Are those numbers Crompton's numbers?

1 502,000.

2 A. I don't know if they're exactly Crompton's
3 numbers. I'm just saying that they have some same
4 distance proximities than what Crompton has.

5 What we were mainly looking at the study for is
6 they found a difference in value between properties --
7 residential properties in proximity to parks. And I
8 think they show a 4 percent or some increase in value.

9 So again, it was just used as background
10 information. It showed that the marketing -- the market
11 for residential properties reacts favorably to being in
12 close proximity to -- to open space and parks.

13 Q. Okay. 502,000. Let's keep those numbers in our
14 head here. Let's put this down.

15 The thing I really wanted to point out in this
16 article or get you to talk about was it appeared to me
17 in our discussions yesterday that you referred to this
18 as an application of Crompton's plug-and-chug models.

19 And is it an application whose plug-and-chug
20 models?

21 A. No, I don't recall saying that or implying that.

22 It's just simply a different document we used to
23 support the fact that -- that residential properties
24 react favorably to open space.

25 Q. Okay. Let's put this down. I'll be done with

1 it.

2 And we'll go back to Dr. Crompton. I'm going to
3 go to page 16. I may have picked the wrong page number
4 here. I obviously have. I'm sorry. I'm on page 14.

5 The last paragraph in column one here. The diversity of
6 the study context makes it feasible to offer a
7 generalizable definitive answer to the question.

8 Consensus among the studies that it has a substantial
9 impact up to 500 to 600 feet. In the case of
10 community-sized parks, upwards of 40 acres. It tended
11 to extent out to 1,500 to 2,000 feet.

12 So can you tell me what the size of the three
13 amenities that you used as park elements; the Overlook
14 Walk, the Promenade and Pier 58?

15 A. Yeah, I don't know the exact size, Mr. Moses.

16 Q. Do you know what the total size of the LID
17 improvements is?

18 A. As far as acres go?

19 Q. Yeah.

20 A. No. And that's not something I know off the top
21 of my head.

22 Q. Okay. We'll get to it later, because the -- it
23 is mentioned in one of the other studies that you cited.
24 I'm going to leave that open for just a minute, but I'll
25 tell you right now that the HR&A study says it's

1 something like 24 acres. So we'll get there in a
2 minute.

3 Okay. Let's go now go to 16. I guess when I
4 look at this, you cited Dr. Crompton's 500 feet and
5 2,000 feet.

6 Why didn't you cite the qualification on size?

7 A. Looking at a unique -- a unique project that
8 there's a lot of different elements to it. We're
9 looking at it as one entity. So we're also looking at
10 other studies from other studies in comparison to this
11 as well.

12 So again, you know, Dr. Crompton's study was
13 used mainly for background information. It was a good
14 source of information, but it wasn't the only source of
15 information.

16 Q. You've used the term "background information"
17 several times in these discussions.

18 Can you tell me what you used for foreground
19 information?

20 A. I'm not following your logic. What do you mean?

21 Q. Well, everything we've looked at you've
22 described as "background."

23 Is there anything that is foreground? That is
24 in the front that you actually used to make these
25 decisions.

1 A. No, I mean, because of the unique elements of
2 this project being comprised of many different types of
3 street escapes, unique amenities like -- like the
4 Overlook Walk, walkways, bike paths, open space. It's
5 just -- it's just unique. So we didn't find one study
6 that we could say, aha, this is absolutely almost
7 identical to what we're doing and we're going to rely
8 really heavily on it.

9 Q. Okay. But you did agree with Ms. Lin that
10 Crompton's study does apply to residential properties in
11 the LID; is that correct?

12 A. That's what he's basing his -- his study on is
13 the -- is the residential factor in proximity to -- to
14 open space.

15 Q. I understand. But you did agree with Ms. Lin
16 that the Crompton's model was applicable to the
17 residential properties in the LID?

18 A. Yeah. It's a good source of background
19 information for us to base decisions on.

20 Q. Okay. So you would expect that your numbers,
21 then, ought to come out within a reasonable range of
22 what Dr. Crompton might have predicted?

23 A. Well, we used -- again, we used his as a
24 guideline. And we also looked at what happens in other
25 large -- large cities where similar park projects have

1 been done, and we made conclusions on that.

2 You know, we've also got to look at the fact
3 that there's an existing waterfront there in the before
4 and make a -- make a determination on how much impact
5 that has on the market.

6 So we're rendering opinion that, you know, may
7 differ from Dr. Crompton's or other studies we've looked
8 at, but they provide a good basis and foundation for us
9 to make our estimates on. So they're used in that
10 relevance.

11 Q. Okay. I'm going to go another page in
12 Dr. Crompton's study here. This is in the first chapter
13 of his report, "Factors Influencing Capitalization."

14 I'm going to go down to column 2. I'm in the
15 section "Factors Influencing Capitalization," in the
16 third paragraph.

17 "It may take 30 or 40 years for new parks to
18 mature. In the beginning, trees are small," et cetera.
19 "Hence the capitalized premium may initially be
20 relatively small."

21 Did you put that qualification into your report?

22 A. Again, we -- we utilized his studies for
23 background information. We didn't -- we didn't
24 specifically cite or look at this -- this particular
25 element in the sense we were looking at what's happened

1 in other areas when parks have gone in, in real close
2 time frame to how the market reacted to it.

3 So that -- that's really mainly the focus of our
4 study, not looking 30 or 40 years down the road.

5 Q. So is it a standard appraisal practice then in
6 your reports to extract information from studies that
7 you want to use and ignore the rest of the study?

8 A. Well, I just don't see any applicability here in
9 relation to what -- what we're doing. You know, that
10 we're looking -- we're recognizing that, you know,
11 some -- that they're putting in more mature trees than
12 they would in the before, and they've documented that.

13 So just the relevance of that to how we're
14 looking at the market at a specific date and time is --
15 is really what we're considering.

16 So are the trees going to grow? Certainly.

17 Is the area going to mature over time? It's
18 probably going to get even greater market acceptance and
19 higher values in the future than -- than probably what
20 we estimated, if you look at if that happened in other
21 cities. But we're looking at a specific date and time
22 immediately before and immediately after the
23 improvements of the LID improvements.

24 Q. Okay. Let's move -- I'm going to kind of stay
25 here for a second.

1 In your analysis you came up with condominiums
2 range -- values at .20 percent to 3 percent, and you
3 didn't make any adjustment for maturity; right?

4 A. We -- we looked at the market based on the
5 description that's in the addenda that describes the
6 after condition, and that's what it's based on.

7 Q. Okay. So -- but is it fair to say, then, that
8 in your analysis, you did not make any adjustments for
9 maturity of the plannings that are going in, in your
10 valuation, compared to what the studies are showing
11 here, which appears to be for mature parks?

12 A. Again, we looked at it as -- as it would be in
13 the renderings and in the descriptions. And yes, trees
14 grow. But we're trying to capture a certain date and
15 time, so that's what we based it on.

16 Q. Okay. I'm going to go back to 14 a second here.
17 I think this is where he is. The last paragraph in the
18 column 2 here.

19 This has to do with hiking/biking trails and
20 linear recreation activities.

21 I'm tired of reading. Would you mind reading
22 this paragraph?

23 A. Where are you at, Mr. Moses?

24 Q. Second column, page 14. It's the last complete
25 paragraph in the second column.

1 HEARING EXAMINER VANCIL: If I could ask
2 that we not read long paragraphs into the record when
3 the document is already in the record. The document
4 speaks for itself.

5 MR. MOSES: In that case --

6 HEARING EXAMINER VANCIL: If you have a
7 question about it, ask the question.

8 If you need the witness to refresh his
9 memory by reading it to himself, that's fine. But we
10 don't all need to sit here and listen to something we
11 can all read.

12 MR. MOSES: Okay. Fair enough.

13 BY MR. MOSES:

14 Q. Did you do any demographic studies of buyers in
15 the downtown market, and sellers?

16 A. Certainly, if you -- if you look in the addenda,
17 in the condos, and the publications that have been made,
18 the typical buyers and sellers, that would have been
19 considered in our analysis.

20 Q. Okay. Let's look at the next paragraph here.
21 It ends on the next page. I'll give you a second to
22 read that one.

23 A. I don't know where you are referring to,
24 Mr. Moses.

25 Q. Starting right below the paragraph we just

1 looked at, about dichotomous lifestyles. The next
2 paragraph begins "For the most part, the rationale
3 underlying" -- second column of page 14 at the bottom.

4 A. Okay. What's your point?

5 Q. Just read the whole paragraph here.

6 Have you read it?

7 A. Yes.

8 Q. Okay. Did you factor utilization rates for
9 parks into your valuation at all?

10 A. We factored in many relevant factors, market
11 forces that we saw that were reasonably to be
12 considered. Specifically, did we do that? I couldn't
13 break that out of the whole bundle of rights of issues
14 that we looked at.

15 Q. Okay. I think I'm done with Dr. Crompton's
16 study. So I'm going to go to CWF 233-123. And we had
17 this page up yesterday. I'm going to go to page 84.
18 This is the page that we talked about yesterday showing
19 the tourists counts, et cetera, one and a half million
20 tourists.

21 A. Correct.

22 Q. Okay. Let's look at the first data line there.
23 Looking at utilization by downtown park adjacent
24 regional residents share the 8 million projected
25 visitors, less than 1 percent. New visitor days per

1 person; zero.

2 So what does that mean to you? Can you explain
3 that number?

4 A. Yeah, that's not something I readily looked at
5 or considered.

6 Q. Is it a number you should have considered?

7 A. I don't know.

8 Q. Is it -- well, this number, if I read it
9 correctly -- and I think a reasonable reader might read
10 it this way, is that downtown residents are not going to
11 use the park any more after these conditions are
12 finished than they did before. There are no new visitor
13 days per person. And this includes both the
14 before-and-after conditions.

15 So can you explain the utility to me of a park
16 that we aren't going to use any more than we did before?

17 A. Yeah. I'm -- I'm not exactly sure what they're
18 implying in that. We utilized their study mainly
19 looking at the amount of new visitors who would come
20 into the market, and the impact on the commercial
21 properties rather than the residential properties.

22 Q. So what did you use for impact on the
23 residential properties?

24 A. As I stated, we looked at the Crompton study.
25 The other study brought up -- the 2011 study. There's a

1 number of other relevant studies that are in the -- in
2 the backup information that show that the market --
3 clearly, when you look at the bundle of rights of the
4 property in the before and the bundle of rights in the
5 property, that willing buyers/willing sellers will pay
6 more for a condominium next to an open space park-like
7 amenity than they will without it. And that's really
8 just the simple crux of what we're trying to reflect in
9 our analysis.

10 Q. And in that increase in value, is it magic that
11 causes that to happen? I mean, what are the underlying
12 factors that actually drive the increase in value?

13 A. Well, if you look at the studies, you know, the
14 desirability of your location change. There could be
15 some enhanced view amenity looking out over a more open
16 space, green space. Many other factors that are
17 outlined in those studies.

18 Q. Okay. You mentioned the view. So this is an
19 interesting one for me. In -- in the valuations you,
20 you assessed fair market value in, I contend, the
21 current condition; you contend the before condition.

22 But do you agree that in both of those there is
23 a significant view premium for west-facing high-rise
24 units?

25 A. Yes. Typically a view unit will sell for higher

1 than a non-view unit.

2 Q. Okay. And the 2.7 percent that you calculated
3 has the same number for both units west-facing and units
4 east-facing, which have significantly lower views, is
5 exactly the same.

6 A. Yes. And the -- the -- the west -- the
7 nonwest-facing views have a lower special benefit and
8 therefore, assessment in the marketplace.

9 Q. But to me, that says -- and I think
10 mathematically it's pretty obvious, you applied whatever
11 value lift there was to both the residence itself and to
12 the view amenity.

13 A. No.

14 HEARING EXAMINER VANCIL: Ask a question,
15 Mr. Macaulay.

16 MR. MOSES: That should have been a
17 question. I apologize.

18 BY MR. MOSES:

19 Q. So did you apply a premium to both the -- to the
20 view amenity?

21 A. The properties in a particular condo unit that
22 had a view amenity would have -- would have a higher
23 market value, both in the before and after.

24 And -- and, therefore, if -- if they had a
25 higher overall benefit amount, then proportionally pay a

1 higher -- a higher assessment amount.

2 Q. So if we have a property that has -- this is a
3 hypothetical -- no view, and we have a property on the
4 other side of the building that has the fantastic view,
5 and you put in the park, you would expect the value of
6 the no view property to increase; right? And if you
7 take the view amenity out of the property that is
8 west-facing and look at it without the view amenity, you
9 would probably come up to pretty close to the same
10 answer, wouldn't you?

11 A. A lot of the condo units, particularly higher-up
12 units, had a real similar view amenity both in the
13 before and after. The difference will reflect by the
14 park elements when you get down and you're able to enjoy
15 those park elements, that relative difference would be
16 consistent throughout the condominium project, if the
17 difference in values would lie within the individual
18 units within the building.

19 Q. I want to -- you've raised utilization of park
20 amenities here. So, obviously -- well, so it appears to
21 me you're considering utilization. So that kind of goes
22 back to the Crompton study.

23 But if the value of the view is fixed and not
24 affected by the park, then how can you get the same
25 percentage increase in the value of a property with a

1 view and a property without a view?

2 A. The -- the view would be the same both in the
3 before and after. And we're trying to recognize what --
4 what the difference is with and without those park
5 amenities.

6 So we're looking at a -- at a fixed property in
7 a fixed location, and we're trying to recognize what --
8 approximately how much difference in value would buyers
9 and sellers pay for that -- for that location within
10 that condo unit, recognizing that they're different --
11 they're different values within each condo unit and
12 different view amenities.

13 Q. But if the value of the view is unaffected by
14 the park, why would a property with a view have the same
15 overall percentage increase as a property without a
16 view?

17 A. Well, it's got the same general utilization of
18 the park amenities than -- than a view versus nonview
19 would. The -- the before values, where it's at for a
20 view or nonview, and then in the after, they both
21 have -- they both have similar amenity factors that the
22 park brings. But we're saying they're roughly similar
23 throughout the shared interest group within the
24 building.

25 Q. So, I guess the question -- next question is,

1 why did you include the view amenity in the before
2 valuation of any property?

3 A. Well, we have to value as it currently exists.
4 If you have a view, you have a view. We can't pretend
5 you don't have a view.

6 Q. For the purposes of calculating a difference in
7 price, could you have eliminated the view amenity?

8 A. No. We need to look at the -- at the bundle of
9 rights of your property and how it exists in the
10 marketplace. And we can't eliminate the view amenity.
11 It's there both in the before and after.

12 Q. So it remains your contention, then, that a
13 property without a view and a property with a view that
14 are identically located would have the same overall
15 percentage increase in price; is that correct?

16 A. No. Of course, not. The -- as I said, the --
17 the view amenity is going to have a higher -- higher --
18 higher value. It is going to sell for more in the
19 marketplace than a nonview.

20 Would they -- would the proximity of that
21 property in relation to the park improvements, would it
22 be fairly consistent throughout the building? Yes, I
23 think it would. But the market value difference is
24 within the units of the building are different.

25 Q. I'm struggling here, because I'm asking you a

1 question and you're kind of giving me the answer you
2 want to give, but not kind of answering the mathematical
3 reality that if the view amenity does not increase in
4 price, how can a view amenity property have the same
5 overall price increase as a property without a view in
6 the before-and-after situation.

7 A. Well, again, the view is there in the before and
8 then maybe the nonview property or the lesser view
9 property is there in the before. In the after, the
10 park -- and then their value is in the before.

11 In the after, the park amenity is there. And
12 the after conditions are that park amenity. And so
13 we're just saying that within a building, that the
14 location of that property is -- is enhanced by factors
15 associated with the park. And that's what -- that's
16 what we're reflecting in the market.

17 Q. Okay. The next exhibit I want to ask a question
18 on is the NYC dot exhibit. And I only got really one
19 question that relates to that exhibit, so I'm not going
20 to put it up unless you ask me to.

21 HEARING EXAMINER VANCIL: Please identify it
22 by number.

23 MR. MOSES: I will try to do that for you.
24 I apologize. I did not include that on my exhibit list.
25 My mistake.

1 HEARING EXAMINER VANCIL: Are you prepared
2 to e-mail it out to everyone now?

3 MR. MOSES: It would take me a minute to do
4 that. So I'm going to leave this question and hope that
5 one of the people who follows me, who's going to be
6 asking about condos can ask it.

7 BY MR. MOSES:

8 Q. So I'm just going to go back to the studies, in
9 general. And in particular, the study you provided by
10 the city clerk. And I believe that was documented by
11 Ms. Lin yesterday.

12 Were any of those reports or studies written
13 specifically to provide advice for appraisers in park
14 and/or streetscape valuation?

15 A. I think they're to inform the market of the
16 benefit of -- of residential property in proximity to
17 parks and how it can increase your property value.

18 Q. That was -- that was actually kind of a yes/no
19 question?

20 A. Well, an appraiser -- an appraiser is part of
21 the market. We're part of the -- the type of user that
22 would read a report like that.

23 Q. I'll repeat the question for you.

24 Were any of these reports written specifically
25 to provide advice for appraisers in park or streetscape

1 valuation?

2 A. Appraisers are market users, Mr. Moses. And we
3 rely on market information. So what, they're written
4 specifically for appraisers? I don't know. It --
5 they're written for the market. And that's what I try
6 to ascertain, is this what the market is reacting to,
7 this project?

8 Q. Did any of these studies attempt to assess the
9 value of the various improvement projects that they
10 looked at on a specific date?

11 A. Well, I think they were -- many of them had --
12 were doing comparison types of analysis.

13 So they were reflecting before and after in
14 different -- in different dates of time. You know,
15 the -- the 2011 study we referred to was obviously an
16 older study. Whether they were specific dates of their
17 are value, I don't recall.

18 Q. In the posted files, is there any summary of
19 these various studies that reconciles the information in
20 them, adjusts for differences in market, size of the
21 other amenities, any other varying characteristics and
22 tries to reach some conclusions on how this is
23 applicable to these projects in the Seattle market?

24 A. Well, again, I mean, that was one of the -- the
25 factors we're trying to determine by looking at such a

1 broad range of studies is due to the various unique
2 elements that are within the project elements.

3 So that's why we looked at a lot of different
4 studies. There was no one study, Mr. Moses, that was
5 identical enough for us to really rely on.

6 MR. MOSES: I understand. But again --

7 HEARING EXAMINER VANCIL: Mr. Moses.

8 MR. MOSES: -- you haven't answered my
9 question.

10 HEARING EXAMINER VANCIL: Mr. Moses?

11 MR. MOSES: I'm sorry.

12 HEARING EXAMINER VANCIL: Are you done with
13 Exhibit 123?

14 MR. MOSES: Yes, I am. I'm sorry.

15 THE COURT: Yeah, if you could take down the
16 share screen, it will be easier for us to see through
17 you.

18 Go ahead and restate your question.

19 BY MR. MOSES:

20 Q. Yeah. I'm frustrated that you're not answering
21 my question. You keep repeating what you've done.

22 What I'm asking for is evidence.

23 So in the posted files, is there any summary of
24 the studies you've analyzed that reconciles the
25 information in them, comments on appropriate adjustments

1 to make -- to use them in the Seattle market, for
2 example, based -- New York City market size versus
3 Seattle market size, size of Hudson River Park compared
4 to the LID.

5 Anything that takes all those studies and tries
6 to condense them into useable information for the next
7 reader of your work.

8 A. Well, I -- I can't recall all 25 or more of the
9 studies we looked at. So I don't -- I don't recall if
10 there's the kind of -- of consensus summary that you're
11 looking for. I -- I don't recall if there is.

12 Q. I'm asking you, is there anything in writing
13 where -- where it demonstrates you have looked at these
14 studies, analyzed them, and reached some conclusions
15 based on whatever adjustments you felt were necessary?

16 A. Well, we've summarized our findings in the
17 report. Is that what you are referring to? Or are you
18 referring to the individual studies?

19 Q. I'm looking for any quantitative analysis of the
20 studies.

21 A. We summarized our value conclusions in the
22 report, and that's the extent of the valuation summary
23 we did.

24 Q. Can I take that as a "no"?

25 A. Well, we -- we summarized our value conclusions

1 in the report, so I don't know what else you want as an
2 answer.

3 Q. Okay. So for any of these studies that you
4 provided, do the files contain any evidence of review,
5 annotations on the reports, dates that it was reviewed
6 by a certain person?

7 A. Are you talking about --

8 Q. -- summarizing a -- pardon?

9 A. Are you talking about our review as our firm or
10 review of other -- other people? Or what are you
11 referring to?

12 Q. Do you have in your files the reports you cited
13 plus in your account, 25 other reports -- I'm asking for
14 any -- other than the cited reports, I'm asking for any
15 evidence that anybody even read those reports.

16 A. From our office? You mean the people that
17 worked on the project? Or people that read the reports
18 for review purposes other than -- other than us? Sir,
19 you're not making sense to me.

20 Q. To me, this is a very clear question, so I'm
21 sorry.

22 I am looking, for example, a literature summary
23 that says, if I'm Mary Hamel and I'm looking at these 25
24 reports and trying to reach conclusion that I read each
25 one of these reports, here are the pertinent facts in

1 that report that apply to the situation I'm analyzing,
2 here are the adjustments I've made to those situations
3 to account for differences in market and conditions and
4 here is a summary of my results.

5 Does any of that exist?

6 A. A lot of that information would have been done
7 through our internal review process. We didn't -- I
8 don't think the level of detail you're discussing is
9 contained in our report. But, certainly, it was
10 discussed throughout the -- the context of us doing this
11 report, various conclusions we reached on the various
12 elements of these studies.

13 Q. Okay. Is there any documentation of your review
14 analysis, your internal reviews?

15 A. No, most of that was done just in the process of
16 reconciling our values and looking -- making sure we
17 were being proportionate with other properties. We
18 didn't write out a detailed description of that.

19 Q. Thank you.

20 Okay. We'll move on here. I'm going to go to
21 Exhibit C-18. Close this one.

22 Okay. Just kind of a few preliminary questions,
23 because this contains a trove of data that was provided
24 to you by the City.

25 And you set the valuation date when you had

1 adequate plans and renderings sufficient to reach a
2 valuation conclusion; is that correct?

3 A. Yes.

4 Q. Okay. Were the plans that you used and the
5 renderings that you used filed with the city clerk at
6 that time?

7 A. I don't know.

8 Q. Okay. Were plans for both the before-and-after
9 conditions filed with the city clerk?

10 A. I don't know.

11 Q. Okay. Was the level of detail you had in the
12 before plans equivalent to the level of detail that was
13 in the after plans?

14 A. Well, I felt -- I felt both met enough criteria
15 for me to make a valid estimate of value both -- both
16 before and after; whether the level of detail was
17 identical or not, I mean, I can't answer that. It was
18 sufficient for me to make my decisions on.

19 Q. Okay. Can you tell me when you received the
20 before renderings?

21 A. Yeah. I can't exactly, Mr. Moses. They were --
22 they were in process through -- throughout the time I
23 was doing the -- the final valuation. I would have had
24 everything that I utilized. It would have been at least
25 a month or better before I finalized the report.

1 Q. Okay. That's -- that's good enough.

2 That's both the before-and-after renderings?

3 A. Yeah. Correct. Everything you see in the
4 addenda, I would have had at least a month or better
5 before the finalization of the report.

6 Q. So those renderings weren't available when you
7 did the preliminary study; is that correct?

8 A. The renderings were available. They weren't as
9 detailed as those in the -- excuse me, during the final.

10 Q. Okay. Those were provided to you, then -- in
11 the material that you provided in discovery, are any of
12 the renderings in there?

13 A. Well, all of the renderings are either in the
14 addenda of the report that I've had for doing the final
15 study, or if there are additional renderings, they would
16 be in the back -- backup information.

17 Q. I'm going to make an assertion that there are no
18 renderings in the backup information. And I'm not sure
19 exactly how you deal with that, because I've looked
20 through it.

21 What I'm looking for is the renderings that were
22 available to you for the before conditions in the
23 preliminary -- well, before and after, in the
24 preliminary study. And you stated to me just a moment
25 ago that the renderings were in progress during the

1 final study. And then when I asked you about the
2 renderings in the preliminary study, you said, oh, well,
3 there were some. I'm -- I'm struggling.

4 A. Why don't you just simply ask the City for them.

5 What I was asked to provide is all of the
6 information that we used to do the final study. The
7 formation study has been done, and that's a separate job
8 number and separate file. So any renderings that we
9 used in formation, the City has.

10 Q. Mr. Macaulay, you actually asked me a question
11 here.

12 But I'll respond. I'm asking you because it
13 doesn't matter what the City has in its files, it
14 matters what you had in your files and could look at to
15 evaluate.

16 And I'm asking you to provide the information
17 that was in your files to evaluate, and that's
18 consistently what the discovery request has been.

19 A. And to answer that --

20 HEARING EXAMINER VANCIL: Mr. Moses and
21 Mr. Macaulay, this is not ongoing discovery. This is an
22 opportunity to cross-examine a witness on the stand.

23 If there is not information immediately
24 available or within his memory or that you've provided
25 him; this is not a chance to go get more documents.

1 We're well beyond that point in the hearing.

2 MR. MOSES: I'm sorry --

3 HEARING EXAMINER VANCIL: I just want to
4 check in, Mr. Moses. When you worked out timing with
5 your fellow objectors, how are you doing on the amount
6 of time you indicated you would be cross-examining?

7 MR. MOSES: We are pretty close. I would
8 say we're probably 15 minutes over.

9 HEARING EXAMINER VANCIL: Okay. How many --

10 MR. MOSES: I can't attest to that, because
11 I don't know what the other people are going to ask.
12 We'll keep going here.

13 HEARING EXAMINER VANCIL: Understood.

14 BY MR. MOSES:

15 Q. I'm going to go quickly then, down to page 153.
16 This is Second Avenue looking west on Pine Street?

17 HEARING EXAMINER VANCIL: You're looking at
18 page 153 of which exhibit?

19 MR. MOSES: This is C-18. I think I
20 specified that earlier.

21 MR. FILIPINI: I would ask, if you are not
22 able to do a screen share, Mr. Moses. I can't help
23 Mr. Macaulay pull it up. -

24 MR. MOSES: I apologize. I turned the
25 sharing off. One of the reasons why we're going so

1 slow. I have to hit share again. There we go.

2 BY MR. MOSES:

3 Q. This is the before condition.

4 Mr. Macaulay, can you tell me just looking at
5 this and eye-balling it, roughly how many parking spaces
6 you see?

7 A. Well, I -- I don't know -- this isn't a -- the
8 street change to this project isn't -- isn't part --
9 isn't part of my analysis on the Pike/Pine corridor.
10 That would have been the same both in the before and
11 after.

12 Q. Oh, it is. Well, this is the same picture of
13 that street in the after condition.

14 A. Yes. It's my understanding that the City would
15 have done something similar to this as far as
16 softening -- wasn't -- the street aspect of it wasn't
17 part of my study, it was more the sidewalks. The
18 widening of the sidewalks and -- and landscape.

19 Q. So you didn't value a before-and-after condition
20 of the Pike/Pine corridor based on these renderings?

21 A. Yeah, we -- we did. Like I said, that --
22 it's -- it's more of a streetscape type -- type of
23 improvement, widening the sidewalks and pedestrian --
24 ease of pedestrian access from the before.

25 Q. Okay. I'm not sure how to do this from a legal

1 standpoint. But in your deposition on page 152, you --
2 you were asked the question: "What about traffic
3 analysis, for example, increased traffic due to narrower
4 lanes?"

5 And you said: "Well, the LID is not about
6 traffic. It's about esthetic amenities and park
7 amenities. And the street design and flow would be the
8 same in both the before and after. So what the City is
9 doing in the Pike/Pine corridor and other areas, they
10 would have done regardless of the LID."

11 Looking at these two pictures, Mr. Macaulay, has
12 the street flow changed? This picture appears to be a
13 vehicular priority, two-lane road. This street appears
14 to be a single-lane, pedestrian priority road.

15 Does that constitute a street change, street
16 flow change?

17 A. Well, the traffic -- the traffic would be
18 impacted. But it's not -- I guess, that's not part of
19 the -- the street aspect wasn't part of the elements I
20 was looking at. It was more, like I said, the sidewalk
21 widening and whatnot.

22 Q. So you didn't evaluate any of the street change
23 impacts; is that correct?

24 A. Yeah. But traffic can still go -- what I'm
25 saying is traffic can still go through in a similar

1 nature from the before and the after, except there will
2 be more -- there would be more pedestrian connection in
3 the after.

4 Q. Let's go down here. We'll go one more. This
5 is -- I'm going to go up here to the next picture. This
6 is -- the before and after here is hard to look at.

7 But this is the after picture of Pike Street.
8 The other end of the Pike/Pine corridor. And, actually,
9 I've got to go to this picture. This is the before
10 condition. And this is always difficult when you
11 increase in size, the pictures move.

12 This is the before condition. Wide road. This
13 is actually -- is a bike lane, but it's still
14 vehicle-priority traffic. Trees are away.

15 And this is the after picture. Okay?

16 Now, right here on Pike and the other end,
17 correspondingly on Pine, there's an alley that enters
18 into these streets. And the condominium that I live in
19 has a 298-car garage, which the cars that enter flow
20 through either one of those ends of the alley.

21 Do you think that these changes would have an
22 effect on the value for us?

23 A. It may -- you may choose to go out a different
24 direction than -- than you would otherwise.

25 Q. One end the alley has this change on it. And I

1 will have to go back this way. The other end of the
2 alley has this change on it. And these -- well, so
3 that's both ends.

4 A. You still -- your access isn't impeded from the
5 before and after. You still have -- have access.
6 You've --

7 Q. Impeded, but is it constricted?

8 A. I don't know if it's constricted. You can still
9 get -- get in and out. There could be some more
10 pedestrian traffic at times. They're talking
11 about (audio disruption) -- traffic in before also.

12 Q. I'm going to stay here for just a second.

13 Did you receive any representation from the City
14 about accuracy of these renderings?

15 A. What do you mean by that? That -- what --

16 Q. Okay. I'll be more specific.

17 Did you receive a representation that these
18 renderings were accurate as of the completion date
19 and presented an unbiased picture of both the
20 before-and-after amenities?

21 A. That was the intent of them, yes.

22 Q. Did you receive a representation to that effect?

23 A. What do you mean by representation? Did
24 somebody tell me they're exact or? They were -- they
25 were done to reflect as much as possible the

1 before-and-after conditions.

2 Q. Did you receive a representation that you could
3 reflect in your actuarial appraisal, which means a
4 written representation --

5 A. No, I did not. A written representation.

6 Q. Okay. Thank you.

7 So, for example, in these trees, can you tell me
8 how much bigger the trees are in this particular view
9 than they're in -- oops, went the wrong way again --
10 this view?

11 A. Yeah. Again, that would be described in the --
12 in the before-and-after conditions. That's in the
13 addenda.

14 Q. I'm asking if you can tell me, Mr. Macaulay?

15 A. Not off my memory, no.

16 Q. Oh, that's good. Because in fact, Mr. Macaulay,
17 these are the same trees.

18 Do you evaluate the esthetics of the
19 before-and-after picture as being equivalent?

20 A. Well, again, I mean, they could have been
21 representing a different time of year. I don't know.

22 Q. So your comment that the -- that these pictures
23 or renderings were supposed to be an unbiased view of
24 the improvements.

25 Do you change your opinion when you look at

1 these pictures?

2 A. No. They were provided to me by the City.
3 Perhaps the -- the rendering people are looking at it at
4 a different level. I don't know.

5 MR. MOSES: I have no more questions.

6 HEARING EXAMINER VANCIL: Thank you,
7 Mr. Moses.

8 Do you have exhibits you need entered into
9 the record, admitted?

10 MR. MOSES: I just want to make sure I used
11 them all.

12 I did not use the exhibit marked "Condo
13 benefit percentage." So if we take that out, it screws
14 up my numbering system.

15 So what would be your pleasure there?

16 HEARING EXAMINER VANCIL: We can just leave
17 a gap at that point.

18 MR. MOSES: Okay.

19 THE COURT: And we'll keep it consistent
20 within your case, the numbering system.

21 Can you identify the numbers that you are
22 seeking admittance for?

23 THE WITNESS: Yes. It's 375, Exhibit 6,
24 which is a letter from Mary Hamel. And 375, Exhibit 7,
25 which was the noncontinuous improvement statute.

1 HEARING EXAMINER VANCIL: So just the two
2 exhibits, 6 and 7?

3 MR. MOSES: Yes. All the others are
4 existing exhibits in other cases.

5 HEARING EXAMINER VANCIL: Any objection to
6 Exhibits 6 or 7?

7 MR. FILIPINI: No objection.

8 HEARING EXAMINER VANCIL: Exhibits 6 and 7
9 are admitted.

10 Thank you, Mr. Moses.

11 Next objector. Mr. Patton. William Patton.
12 Turn on your microphone and your camera.

13 MR. PATTON: I think I'm on here but Vic
14 still has his.

15 MR. MOSES: Yeah. I'm stopping the share
16 here.

17 HEARING EXAMINER VANCIL: Will you please
18 identify your case number?

19 MR. PATTON: Case is CWF 0171.

20 HEARING EXAMINER VANCIL: Thank you.
21 Your witness.

22 CROSS-EXAMINATION

23 BY MR. PATTON:

24 Q. Mr. Macaulay, I'm going to ask you questions
25 about two general areas. One, the special benefits and

1 general benefits, which you talked about previously; and
2 specific questions about the condominium which my wife
3 and I own at 1920 Fourth Avenue.

4 And -- Vic, perhaps you could mute your video.
5 There we go?

6 So let's begin with the general issue of
7 specific benefits. So your charge, as I understand it,
8 was to do a special benefit study for the special
9 benefits of this six-element waterfront park; is that
10 right?

11 A. That's correct.

12 Q. And you ignored any discussion or any valuation
13 of general benefits surrounding that park?

14 A. My job is to estimate special benefits -- excuse
15 me, general benefit, is to estimate special benefit,
16 which is anything measurable in the market before and
17 after the improvements.

18 Q. So you didn't take account in your study of any
19 general benefit to people in Seattle?

20 A. No, it's not part of the scope of my study.

21 Q. Okay. So if you were asked to do a similar
22 study for a new library, what would you do?

23 A. Well, I've never done that kind of study before.
24 I've never done a general study.

25 Q. I'm asking, if you were asked to do -- what you

1 did for the waterfront park proposal, that is the
2 special benefit study, if you did it for a library, what
3 would you do?

4 A. Well, it would just depend on whether it
5 measurably specially benefitted any of the surrounding
6 area or not.

7 Q. Okay. So you look at the location of the
8 library and figure out what the special benefits were to
9 the --

10 A. (Audio disruption).

11 Q. -- to the adjacent properties?

12 A. Correct. If there were any measurable
13 benefits -- if there were any measurable special
14 benefits or not.

15 Q. And would you measure the distance that those
16 special benefits would go from the library location?

17 A. If there were any special benefits from -- from
18 a library, we would try -- if we were asked, we would
19 try to recommend, then, a boundary to which the market
20 would be influenced to a measurable degree, by its
21 proximity to the library.

22 Q. Okay. And would you measure any general
23 benefits of a new library?

24 A. No. If the scope of my assignment was to do a
25 special benefit study, then the general benefits to the

1 library wouldn't be something we would consider.

2 Q. So in this study of the waterfront park, the
3 City of Seattle didn't ask you to consider any kind of
4 general benefit of the park; is that correct?

5 A. No special benefit study that I've done over
6 30-some years have I ever been asked to try to ascertain
7 the special -- or the general benefits. My scope is
8 always dealing with the special benefits.

9 Q. Okay. Well, in the two studies that you
10 recited or talked about being of approximate equal size
11 in terms of the properties involved, were two LID
12 projects in the City of Ocean Shores; is that right?

13 A. I was just using that as an example of an LID
14 that we did that had a large number of tax parcels.

15 Q. So one was a sewer project for residential
16 properties in Ocean Shores?

17 A. That's correct.

18 Q. And the other was a road project largely in the
19 commercial area in Ocean Shores?

20 A. No, the road project was largely in the
21 residential area.

22 Q. Oh, okay. So they were both residential areas?

23 A. Well, excuse me, the road LID covered both the
24 commercial area and the residential area.

25 The wastewater treatment LID primarily just

1 covered the residential area.

2 Q. Okay. So was there any name attached to the --
3 either of those projects?

4 A. Yes. They would have had an LID number, or
5 whatever it would have been, is typically a common
6 reference cities will use or they'll have a name like
7 this, like the Waterfront Seattle Project. But
8 typically there's an LID number associated with it.

9 Q. Was there any name like the Dixy Lee Ray Sewer
10 Improvement Area?

11 A. Not that I recall.

12 Q. Dixy Lee Ray is a former Governor of Washington.

13 A. I'm aware of that.

14 Q. So maybe in considering the -- the special
15 benefits and the general benefits what may be discussed
16 or may be thought of is kind of instead of an absolute
17 value of general benefits, a relational benefit, special
18 versus general benefits.

19 That is, are the special benefits bigger than
20 the general benefits or are the general benefits bigger
21 than the special benefits? Have you ever given that
22 consideration?

23 A. No. No, I've never been asked to estimate
24 general benefits. Anything I deal in is what's
25 measurable in the marketplace.

1 Q. Well, do you think people go to Ocean Shores
2 from Tacoma for the purpose of enjoying the sewer LID?

3 A. Well, they go to Ocean Shores to vacation. You
4 know, it obviously benefitted -- it's measurably
5 benefitted the residents that it impacted rather than --
6 in my relation to market value. That's what I was
7 considering in that case, as I would in any other
8 special benefit case.

9 Q. So cite the example you used of a project that's
10 not yet built and maybe three or four years out in
11 Pasco. That's a road project; is that right?

12 A. That's correct.

13 Q. Okay. Again, in -- people go to Pasco to enjoy
14 the roads that will be developed in that project?

15 A. Sure. And my job -- my job then is to estimate
16 the measurable benefit of property that -- that
17 measurably increases in value from the construction of
18 that road. Not the public at large. And not the
19 general benefits and public at large.

20 Q. So the roads is really for the benefit of those
21 particular people that are adjacent to the road; right?
22 That front on the road.

23 A. Well, in that particular case there were
24 mitigation requirements and other factors where without
25 the alleged LID, they would have to build that road in

1 order for the adjacent area to develop.

2 Q. Okay. So let's go to -- I want to draw your
3 attention to Exhibit C-17, that's your final study.

4 And you used six different studies as examples
5 that are kind of comparable to what's going on in
6 Seattle and the development of the waterfront park; is
7 that right?

8 A. Those were the ones we put in the report, yes.

9 Q. Yes. So the first one was the Tom McCall Park.
10 And I'm going to see if I can share the screen here with
11 this one.

12 And I may make people dizzy by doing this, but I
13 apologize.

14 So the first one you talk about is the Tom
15 McCall Waterfront Park; is that right?

16 A. Okay.

17 Q. So --

18 HEARING EXAMINER VANCIL: Mr. Patton, you
19 are not sharing the screen.

20 MR. PATTON: I'm sorry. I'm just looking at
21 it myself.

22 HEARING EXAMINER VANCIL: You're not
23 required to, but if you can, it is helpful. And
24 everyone understands getting through the process. We've
25 all done it.

1 MR. PATTON: All right. Now, I have to --

2 THE WITNESS: I've got my report handy here,
3 if that's helpful. I can reference the report. It's
4 right next to me.

5 MR. PATTON: I'm going to try again.

6 HEARING EXAMINER VANCIL: You are sharing
7 screen now. We can see your desktop.

8 MR. PATTON: All right. I'm going to stop
9 sharing here. See if I can do it with a different
10 document.

11 BY MR. PATTON:

12 Q. But, anyway, in terms of the Tom McCall Park,
13 it's named after a former governor of Oregon; right?

14 A. I believe so, yes.

15 Q. And it was developed some time ago as a benefit
16 for the City of Portland; right? When they took down
17 the expressway that was there previously.

18 A. Yes.

19 Q. And then the next example you gave is the Rose
20 Kennedy Greenway in Boston; right?

21 A. That is another --

22 Q. Rose Kennedy was the mother of President Kennedy
23 and Robert Kennedy and Edward Kennedy?

24 A. Yes.

25 Q. And this was constructed as a parkway across

1 the -- the top of the -- what was called the "big dig"
2 for a tunnel?

3 A. Yes.

4 Q. So, an example -- a local example might be the
5 park that's over I-90 on Mercer Island. Mercer Island
6 Lid; not an "LID," but a Lid over a freeway.

7 A. Okay.

8 Q. Do you agree that's kind of a similar
9 development? Maybe not the same scope, but similar.

10 A. Well, yeah, not -- not in any kind of scope that
11 I would look at from a comparison purposes.

12 Q. So the Rose Kennedy Greenway is a big benefit to
13 the City of Boston; right? And it's become a -- a draw
14 for the City of Boston.

15 A. Correct.

16 Q. The third example you used is the Hudson River
17 Park, that was built over a long section adjacent to the
18 Hudson River that used to be the West Side Highway of
19 New York?

20 A. Yes, it was a considerable redevelopment of the
21 area.

22 Q. And that's become a tourist draw to the City of
23 New York; right?

24 A. That's correct.

25 Q. You didn't mention the High Line, but that's

1 also a big tourist draw in the City of New York; right?

2 A. Yes. We recognized that in our background
3 information.

4 Q. And the fourth example you used is the
5 Embarcadero in San Francisco?

6 A. That's correct.

7 Q. And that's also a big draw for tourists coming
8 to San Francisco?

9 A. Yes.

10 Q. And a benefit to the whole downtown community of
11 is San Francisco; is that correct?

12 A. A very, very popular area.

13 Q. And then the fifth example you used as a
14 comparable is Millennium Park in Chicago?

15 A. Yes.

16 Q. That's an expansion of Grants Park in Chicago;
17 right?

18 A. Yes.

19 Q. And it's built over some old railroad yards and
20 parking areas. So it's kind of another Lid -- "Lid," as
21 in terms of a covering, not a local improvement
22 district.

23 A. Yes. It was a substantial redevelopment of the
24 area.

25 Q. And the sixth one you mentioned is the proposed

1 False Creek conceptual plan and extension of Stanley
2 Park in Vancouver, British Columbia; right?

3 A. Yes.

4 Q. Now, all six of those are major tourist
5 attractions to each of those separate cities from
6 around -- from around the country, right, for people to
7 come to?

8 A. That's correct.

9 Q. Okay. And that's what Seattle hopes to have in
10 place with the development of the waterfront park; is
11 that right?

12 A. Yes, there would be elements of similarity.

13 Q. Okay. And you -- I think it was yesterday you
14 talked about the fact that -- or last week, the fact
15 that it was hard to figure out general benefits because
16 where do you stop, Edmonds, Burien, et cetera, for
17 how -- how much of a general benefit some development
18 was; is that right?

19 A. Just -- just by their definition. The general
20 benefit is a benefit that benefits the public at large.
21 So, again, it's nothing we asked to ever measure. And
22 it just isn't measurable, in my opinion, in the
23 marketplace.

24 Q. Well, and you're aware that Mr. Foster described
25 one of the -- one of the points to which the value of

1 the park would extend is to Kent.

2 A. I'm not following your --

3 Q. Have you seen his interview in the magazine
4 Journey?

5 A. No.

6 Q. Are you aware -- so you're not aware that he
7 also said, well, we expect people from around the world
8 to see waterfront park as a destination?

9 A. Well, that would -- that would -- that would be
10 the -- one of the -- the amenities of the park would be
11 to attract tourism.

12 Q. Okay. So -- and Tom -- let's take the first
13 one, on Tom McCall Park.

14 Do you think the major purpose of developing
15 that park was to benefit the local businesses?

16 A. Well, we -- we looked at it in the context of
17 did it -- did it increase value to abutting ownership.
18 And we felt that it had some positive impact on the
19 buying and selling and market behavior of investors that
20 were in close proximity to the park.

21 Q. Some things can have, therefore, both the
22 general benefits and special benefits; right?

23 A. That's correct.

24 Q. So if -- if the City wants to build a -- a new
25 downtown library, it -- it perhaps has loss of general

1 benefits, it may also have some special benefits to the
2 people who live around that location of the library; is
3 that right?

4 A. That's possible. There could be some special
5 benefit, yes.

6 Q. So in the second one, Rose Kennedy Greenway,
7 that was developed as a major tourist attraction,
8 redevelopment of the City of Boston; right?

9 A. That's correct.

10 Q. Yeah, it wasn't -- the primary purpose wasn't to
11 benefit surrounding businesses.

12 A. Well, yeah, again, a study like that, because
13 we're trying to measure the difference in value, we
14 looked at it and what context it had on -- on buyers and
15 sellers in the marketplace and their -- their investment
16 decisions.

17 Q. So a big development like that, the Rose Kennedy
18 Greenway, could have -- you know, it was a general
19 municipal project. It could also have ancillary special
20 benefits.

21 A. Yes.

22 Q. Okay. And similarly for Hudson Park -- River
23 Park in New York, a big redevelopment -- shoving aside,
24 redeveloping an old decrepit highway along the river
25 could benefit the whole city and provide, again, another

1 tourist draw for New York. Could have ancillary special
2 benefits, but the main purpose is really a redevelopment
3 of the community. For the general benefit of the people
4 in New York, as well as everybody who visits New York.

5 A. Is that a question or a statement?

6 Q. That's a question.

7 A. Well, again, yes. But we're looking at the
8 study in the context of how the market participants that
9 own real estate were impacted by it.

10 Q. Okay. And I'm going to go down these. There's
11 only six of them.

12 So the Embarcadero is described in your report
13 as a "public benefit project," on page 159; is that
14 right?

15 A. I'm not seeing it handy here, but I'll take your
16 word for it.

17 Q. And, likewise, it has ancillary special benefits
18 to businesses or residents within about two-block radius
19 of the -- of the new Embarcadero improvement; right?

20 A. I think it would -- it would vary depending on
21 where you are. You would get up into the Fisherman's
22 Wharf area, and down into that area. I think the impact
23 is much greater than two blocks.

24 Q. And the Embarcadero, like, similar to Seattle,
25 really the most similar is the fact that the City of

1 San Francisco ripped down a pre-existing freeway because
2 of seismic considerations; right?

3 A. Yes, they did take down an existing freeway.

4 Q. And similarly the viaduct has been taken down
5 and replaced by a tunnel because of seismic danger?

6 A. That's correct.

7 Q. And the Millennium Park in Chicago is a big
8 development over the parking area and the railroad yards
9 to expand the reach of Grant Park and make other public
10 attractions for the City's benefit; right?

11 And that park may -- the Millennium Park may
12 have subsidiary, but lesser special benefits?

13 A. Yes, there would be some -- there is special
14 benefits associated with that project.

15 Q. And that's similarly the plan for an extension
16 of Grant -- of Stanley Park in Vancouver, British
17 Columbia; right?

18 A. Yes.

19 Q. And before you said in terms of evaluating these
20 six projects as being comparables to Seattle, in terms
21 of trying to figure out the nature of those special
22 benefits to surrounding businesses and residences, if
23 there is any, if people have challenged your special
24 benefit studies, you said that one of the reasons that
25 you can have confidence in your studies is that you've

1 been challenged in court and with challenges like this
2 to your special benefit study; right?

3 A. Well, I don't know what specific challenges -- I
4 have been challenged in court before, yes.

5 Q. Well, here we're challenging you -- we're asking
6 you questions, anyway, about your special benefit study
7 before a Hearing Examiner; somewhere down the line some
8 of us may appeal that decision of the City Council, if
9 there is one adverse to us in court; right?

10 A. I understand that.

11 Q. Okay. For Tom McCall Park, that's used as a
12 comparable, what were -- what were the challenges to the
13 Local Improvement District there?

14 A. Well, I don't know exactly what funding
15 mechanisms they used. We were just looking at the --
16 the before-and-after elements of -- of -- before they --
17 in the before condition from where the park was and then
18 the enhancements they did to it and the impact that had
19 on the adjacent property.

20 Q. Aren't you aware that there was no
21 local improvement district for McCall Park?

22 A. Yeah. Again, I'm not aware of what type of
23 funding they had. We're just looking -- we're not
24 looking at the financing element, I'm just looking at --
25 in the after condition, did it have a positive impact on

1 the adjacent property?

2 Q. Well, as I recall, you asked various realtors
3 what they thought the benefit of McCall Park were;
4 right?

5 Nobody challenged those assumptions in a -- in a
6 legal proceeding, did they?

7 Nobody challenged the assumptions that you
8 relied on from the realtors?

9 A. We haven't -- we're -- we're in the process of a
10 hearing, and it's been brought up. But there's been no
11 legal challenge to it yet, that I'm aware of.

12 Q. No, I'm asking about Tom McCall Park?

13 A. I guess I'm not following you here --

14 HEARING EXAMINER VANCIL: We'll pick that up
15 when we come back from a break.

16 Mr. Patton, may I ask, how much of your time
17 do you anticipate for questioning for Mr. Macaulay?
18 What's your estimate, time estimate?

19 MR. PATTON: It was 25 to 40 minutes.

20 HEARING EXAMINER VANCIL: And before I go,
21 can I get the similar estimate from Mr. Tanase,
22 Mr. Jacobs, and Ms. Gruen.

23 You can all open your mic for just a moment
24 and let me know your estimated time for questioning this
25 witness.

1 MR. TANASE: This is Ted Tanase. It think I
2 will be about ten minutes.

3 HEARING EXAMINER VANCIL: Ms. Jacobs?
4 Ms. Gruen.

5 MS. GRUEN: This is Karen Gruen. I would be
6 the 20 minutes I originally estimated.

7 HEARING EXAMINER VANCIL: And Mr. Jacobs.

8 MR. JACOBS: I'm still looking at 45 to
9 60 minutes.

10 HEARING EXAMINER VANCIL: Okay. Given the
11 amount of time we have remaining today, it seems that
12 Mr. Macaulay will go a bit into tomorrow, but not by
13 much.

14 And so I wanted to check with the City if
15 they want to switch witnesses, since you have some
16 scheduling complications with Mr. Marshall in the
17 morning, so we don't run into that. Mr. Macaulay is
18 going to be here tomorrow, anyway, it looks like.

19 MR. FILIPINI: If we could start with
20 Mr. Foster in the morning, that would be preferred,
21 because he will -- he anticipates losing connectivity at
22 some point in the later morning. So if we could start
23 with him, that would be great.

24 HEARING EXAMINER VANCIL: We'll stick with
25 that. I was asking if you wanted to switch witnesses

1 now for the remainder of the day.

2 But we can just stick with Mr. Foster coming
3 on in the morning.

4 MR. FILIPINI: Thank you.

5 Yes, we did check during the lunch break, if
6 he was available this afternoon, and he was not. He had
7 a short window, but that appears to have closed. So in
8 the 3-4 window he was not.

9 HEARING EXAMINER VANCIL: That's fine.
10 We'll take a break and return at 3:15.

11 (A break was taken from 3:05 p.m. to 3:19 p.m.)

12 HEARING EXAMINER VANCIL: Return to the
13 record with Mr. Macaulay on cross.

14 Back to you, Mr. Patton.

15 BY MR. PATTON:

16 Q. Thank you.

17 Mr. Macaulay, just to conclude with the six
18 examples you provided in your special benefits study,
19 there was no LID, that is local improvement district for
20 the creation of the Tom McCall Park, was there?

21 A. Not that I know of.

22 Q. And there was no local improvement district
23 created for the creation of the Rose Kennedy Greenway in
24 Boston, was there?

25 A. Not that I know of.

1 Q. There was no local improvement district created
2 for the Hudson River Park in New York; is that right?

3 A. Not that I know of.

4 Q. And there was no local improvement district
5 created for the Embarcadero in San Francisco, was there?

6 A. Not that I know of.

7 Q. And, likewise, no local improvement district
8 in for the creation of Millennium park in Chicago?

9 A. Correct.

10 Q. And similarly the extension of Stanley Park in
11 Vancouver, British Columbia?

12 A. Correct.

13 Q. Now, let's go on to more local focus. In our
14 particular condominium at 1920 Fourth Avenue.

15 You said this morning when you were talking with
16 Mr. Reuter about The Edgewater and proximity to
17 Sculpture Park, that the office building across the
18 street from The Edgewater was outside the boundary
19 because of its proximity to Sculpture Park; right?

20 A. Well, it would be a combination of looking at
21 The Edgewater and its use as a hotel in getting
22 towards -- the Sculpture Park and away from the
23 improvements that the LID is constructing. So the
24 office building was -- was looked at as being not real
25 measurable, although it is -- it is in close proximity

1 to the hotel.

2 Q. Can you tell me what consideration you took for
3 condos in our building at 1920 Fourth Avenue for its
4 proximity of one block from McCall Park already existing
5 and approximately three blocks from Westlake Park that
6 already exists?

7 A. Well, I mean, obviously Westlake Park is a very,
8 very small area. The elements that -- that subject LID
9 is doing is vastly different than a small park.

10 Q. So you didn't take any consideration of that
11 proximity; is that correct?

12 A. It wasn't due to the small nature of Westlake
13 Park; it wasn't considered to be a significant factor in
14 the market.

15 Q. Okay. Let me see if I can share a screen,
16 because I want to show you --

17 Did you see anything on your screen?

18 HEARING EXAMINER VANCIL: Yes, you are
19 sharing the screen. The document is small. You may
20 want to expand it.

21 BY MR. PATTON:

22 Q. Are you looking at this page --

23 HEARING EXAMINER VANCIL: You need to center
24 it in your screen and make it larger.

25 MR. PATTON: There we go. Well, I'm trying.

1 How is that?

2 HEARING EXAMINER VANCIL: We can see the
3 document, but not --

4 THE WITNESS: The print -- the print is
5 very small.

6 MR. PATTON: Can you see it better now?

7 THE WITNESS: Yes.

8 BY MR. PATTON:

9 Q. So this is -- this is page 65 of Exhibit C-17.
10 It's the spreadsheet that includes our condo which is on
11 the second line.

12 Do you see that -- Johnnie H and William?

13 So what you have here is a before-and-after
14 Figure 12 -- 1,245 million, 425 before and 1,254,766
15 after; right?

16 A. Yes.

17 Q. And do you see the special benefit is \$9,341?
18 Although the notice coming from the City said \$9,340.69.
19 So this is rounded up; correct?

20 A. Is that the from your assessment notice, yes.

21 Q. And you see -- that this whole spreadsheet has
22 units from the Escala Condominium. And like the -- the
23 spreadsheet for the condo at 1521 Second Avenue, these
24 are all the same percentages changes in the special
25 benefit of .75 percent; right?

1 A. That's correct.

2 Q. And you see that ours, the market value with the
3 LID 1,245,766, is the same as, I think, about six lines
4 down, and then the same as -- as you go down about 12
5 where my cursor is.

6 A. Okay.

7 Q. So you said that there are -- that according to
8 USPAP standards you had to have backup in your files for
9 justifying these results; is that correct?

10 A. Yes.

11 Q. Okay. And if I'm going to shift down in this
12 document, I hope you can see it.

13 Do you see me scroll down?

14 A. Yes.

15 Q. Okay. So here is the file that was in the data
16 that ABS provided when requested in January. And this
17 is -- the total file for -- the Escala. The file is
18 labeled "Escala." And, as you can see, the latest sale
19 is in 2016. Sale date, I have my cursor on it, 8/31/16.

20 Do you see that?

21 A. Yes.

22 Q. Okay. So you can't possibly describe what the
23 value of our condominium on October 1st of 2019, from
24 this sales data, can you?

25 A. Sure.

1 Q. It all goes backwards.

2 A. I'm sure there would have been more relevant
3 sale information in your condo since then in our backup
4 file.

5 Q. Well, if, so you didn't provide it as -- as
6 required because --

7 A. I will look.

8 Q. This is the only thing in the Escala folder and
9 the data that was provided.

10 A. I will check. There was other sale folders in
11 there, and I will check on that.

12 Q. Okay. Well, you have to check with Ms. Hamel;
13 right?

14 A. I'll check with the Clerk's Office. That's
15 where all the data -- our data would have gone to.

16 But I will check with Ms. Hamel, too, to make
17 sure everything got in there.

18 Q. All right. I'm going to scroll down to another
19 exhibit.

20 These are a listing of -- I have to minimize
21 this a little bit.

22 So these are four valuation notice cards that we
23 received from the King County Assessor's Office in the
24 four years we've owned the condo, since July -- this is
25 actually June of 2016.

1 And you can see the name of the previous owner
2 there on the first one. So it goes from 2016, '17, '18,
3 and '19.

4 And if you look at the card for 2000 -- the
5 value, which was sent out in 2018. July 26th of 2018,
6 the building value there is 1,254,000.

7 Do you see that?

8 A. Yes.

9 Q. Okay. And then if you go back, scroll up to
10 page 65 of Exhibit 17, we'll go to the -- I'm getting a
11 little better at this.

12 So the value with the LID is remarkably similar
13 to that number; 1,254,766.

14 Do you see that?

15 A. Yes.

16 Q. So I was trying to figure out, because how you
17 got to the these before-and-after numbers, because
18 there's no explanation in your final report about how
19 you did this.

20 So it appeared to me -- and I think it bears out
21 from doing the mathematics, that these numbers are
22 really derived numbers from the Assessor's Office.
23 Because if you -- if you divide the special benefit
24 number of 9,340.69 and say, all right, what -- what
25 percentage of the 2018 value from the Assessor's Office

1 of 1,254,000 is that if you divide \$9,340.69 by
2 1,254,000, you get .0074.

3 I know you may not have a calculator there, but
4 I assume will you agree that that's what happens.

5 HEARING EXAMINER VANCIL: Do you have a
6 question about that, Mr. Patton?

7 BY MR. PATTON:

8 Q. Yes. I said I assume you will agree that's what
9 the number derives at.

10 HEARING EXAMINER VANCIL: That's a
11 statement.

12 MR. PATTON: That's a question. If he
13 disagrees with me --

14 HEARING EXAMINER VANCIL: It's your
15 assumption, actually. If you want to ask him about
16 it --

17 MR. PATTON: All right. So --

18 HEARING EXAMINER VANCIL: While we're at it,
19 if there's any chance you could minimize your e-mail,
20 you may not want us all to --

21 MR. PATTON: Oh yeah. For some reason, I
22 seem to be giving you the whole screen.

23 BY MR. PATTON:

24 Q. So if you took that number, \$9,340.69 and said
25 since you're looking at 75 percent increase, if you

1 divide that -- if you figure out what is \$9340.69 as
2 a -- if it's a .75 percent of something, the number you
3 arrive at is this number: \$1,245 and -- \$1,245,425.

4 So that seems to me exactly how you derived the
5 before market value. You first figured out what 74 --
6 .74 percent of the Assessor's number is, and then
7 figured out what the before value would be if it were
8 75 percent. And then you just added that 9,000 number
9 to the derived number to get the market value without
10 the LID.

11 Do you see how that goes?

12 A. I see what you're referring to.

13 Q. Okay. Can you tell me if that's what you did?

14 A. No. It was a before-and-after estimate. We
15 felt that the properties -- the partial interest that
16 comprised the entity of that building would reflect a
17 similar difference in market value that each condo unit
18 was valid independently in the before and after, and for
19 proportionality purposes we felt that the net result was
20 a .75 percent increase.

21 Q. Well, from the -- let me just ask you.

22 It doesn't seem to me from the -- from the file
23 labeled "Escala" that was provided as the data from your
24 company; that you could ever make that calculation of a
25 before value.

1 The only way it seems to me -- you know, I'm
2 asking you whether you think this is realistic
3 assumption, is it came from the 2018 Assessor's number?

4 A. No. It had no relation to the Assessor's
5 number. Any -- any inference to that is just
6 coincidental. We didn't --

7 Q. All right, so if -- if I expanded in my response
8 to the Hearing Examiner, and did the same mathematics
9 with these other condos in Escala, you wouldn't think I
10 would get the same numbers from the Assessor's data?

11 A. No, they should be -- some of them may be
12 similar, but they're --

13 Q. Some of them are exactly the same, not just
14 similar.

15 A. Well, they should be exactly the same. If there
16 is, that is just coincidental.

17 Q. Okay. And if the -- if I'm correct that the
18 number is really a derived number from the Assessor's
19 numbers for 2018, then, in doing your study as of
20 October 1, 2019, you would have had access to the 2019
21 Assessor's numbers; right? Because they were -- they
22 came out in August.

23 A. Yes. We did a number of downloads of Assessor's
24 data throughout the course of doing our -- our project.

25 We -- we were finalizing the numbers we needed

1 to have -- when we finalize the report, we need to have
2 the most current Assessor's data available.

3 Q. Okay. And if I'm correct that all you did was
4 derive a number from the Assessor's number in 2018.

5 And for 2019, you should have used the 2019
6 Assessor's numbers, correct?

7 A. We did not use the assessed value in our -- in
8 our valuation. That is incorrect. That is not factual.

9 Q. Okay. But if you did, you should have used
10 the -- if you did use a DER vacation as I've described
11 it, you should have used the 2019 Assessor's number;
12 correct?

13 A. We did not use the Assessor's number in our
14 report.

15 Q. I'm asking you a hypothetical that if in my DER
16 vacation assessment calculation is correct, you should
17 have used the 2019 Assessors's numbers?

18 MR. FILIPINI: I would object that this is
19 an improper hypothetical.

20 HEARING EXAMINER VANCIL: Response,
21 Mr. Patton?

22 MR. PATTON: I don't think it's improper at
23 all, since that's how I've demonstrated in our testimony
24 how the value was derived.

25 HEARING EXAMINER VANCIL: Sustained.

1 BY MR. PATTON:

2 Q. Okay. And you'll see that the number in the
3 same relevant column for 2019 assessment from the Kitsap
4 County Assessor's is lower than 2018.

5 A. Yes.

6 Q. And in your Final Benefit Study, did you take
7 any account of the fact that the residential market was
8 decreasing as of October 1, 2019?

9 A. Well, we just looked at it, as it would be as of
10 that date and time, whether the market was going --
11 going up or down. We just looked at it as we felt it
12 would be reflected by -- by comparable data.

13 Q. So in a mass assessment, you don't think it's an
14 obligation of yours to talk about the market conditions
15 at the time that you're making the assessment?

16 A. Well, if you look in the addenda of the report,
17 you will see a market conditions somewhere on the
18 condominium market that is in the report.

19 Q. And showing that the market values for
20 condominiums was going down at that time?

21 A. If that's what it says in the report, then --

22 Q. No, I'm asking you, is that what it says?

23 A. I -- I would have to go back and review it.

24 MR. PATTON: No further questions. Thank
25 you.

1 HEARING EXAMINER VANCIL: Next objector?

2 Mr. Tanase? If you are not prepared we can move on.

3 MR. TANASE: Can you hear me now?

4 HEARING EXAMINER VANCIL: Yes. Can you also
5 please turn on your camera?

6 MR. TANASE: Is it on now?

7 HEARING EXAMINER VANCIL: Yes. We can all
8 see you and we can hear you.

9 MR. TANASE: Okay. Great.

10 HEARING EXAMINER VANCIL: What is your case
11 number?

12 MR. TANASE: It's CWF 0063.

13 HEARING EXAMINER VANCIL: Your witness.

14 CROSS-EXAMINATION

15 BY MR. TANASE:

16 Q. Mr. Macaulay, I'm trying to get some clarity for
17 myself. It may be clear for others. But I wanted to
18 check on a few things.

19 Did you say that you did around or over 120
20 studies in Washington over the last 30 years?

21 A. Yes. It's been -- it's been well over a
22 hundred.

23 Q. Okay. Very good.

24 And I thought I heard you say, I'm just
25 checking, that -- that in some -- some of the studies

1 you actually did the after study when the LID was
2 completed; is that correct?

3 A. Excuse me, I'm trying to turn up my mic here.

4 Yes, we -- we did one recently over in Pasco
5 last year where they closed out the LID prior to
6 constructing the improvements.

7 Q. Okay. So -- so how many of the, roughly, 120
8 studies were done with the after when the LID was
9 already completed?

10 A. Most of the studies are done when the LID is --
11 is at or near completion -- the vast majority of them,
12 the project was almost completed, but there are elements
13 that still need to be finalized. So some of them are
14 totally done. But it's unique to have one closed out
15 before the improvements are constructed.

16 Q. Okay. So -- so the other few that -- that are
17 like this one, where it's much more speculative, I
18 guess; right?

19 A. I wouldn't use the word speculative.

20 Q. Okay.

21 A. But the basis is as of a date and time that's
22 prior to actual completion of -- physical completion of
23 the construction of the project elements.

24 Q. Okay. So for the -- the ones that are -- I'll
25 try and pick another term, more predictive.

1 Have you ever gone back and done what I'll call
2 a post-analysis, that is go back afterwards to see how
3 close your prediction was?

4 A. Yes. We looked at a study -- several studies
5 that we've done, one -- one in Lynnwood that was done a
6 number of years ago. We were involved the new
7 interchange at 196th, and then it opened up a large land
8 area to be rezoned to commercial on the east side of the
9 freeway that didn't -- didn't exist before with more
10 rural -- not rural zone, but more rural zoned land and
11 then it was changed to commercial. And then it also
12 allowed the expansion of the Alderwood Mall and
13 increased accessibility to the Alderwood Mall, and the
14 surrounding commercial properties.

15 And we did go back trying to capture -- capture
16 in time to see how the market reacted to those -- those
17 improvements and -- they weren't exact. But they
18 were -- they were -- they were very favorable
19 differences that we saw in looking at that, trying to
20 isolate the date of value and before, and then trying to
21 recognize after -- after it was completed and take out
22 any other elements of the market to see -- to see where
23 we were at. So it wasn't exact, but the market
24 definitely did improve.

25 Q. Okay. So in the study, did you ever find where

1 the -- the actual was less than what you had predicted?

2 A. Well, yes. I mean, there were a few -- there
3 were a few local improvements districts that were formed
4 in the 2006/2007 era where the market was escalating
5 rapidly. And then they went to close them out in 2010
6 when the market had changed -- changed dramatically. So
7 they were -- you know, the benefit -- the benefit amount
8 was less as of the date and time, they closed out the
9 LID.

10 Q. So someone -- one person or maybe more asked you
11 a question of margin of error, and you said there was no
12 margin of error.

13 Just for me, margin of error is the differences
14 over a number of projects between your estimated and the
15 actual.

16 So is that your definition of margin of error?

17 A. Well, I don't -- what I said, there's no --
18 there's no definition of margin of error that I've ever
19 seen in any appraisal, you know, documentation of --
20 appraisers certainly differ and can differ in their
21 market value estimates. But there's no definition I've
22 ever seen of margin of error.

23 Q. Okay. So when you were saying there was no
24 margin of error, you're -- you're saying -- I guess, the
25 question -- you're saying that that's just not a term

1 that's used in your field?

2 A. Well, it's a term that can be used. I mean,
3 appraisers, you know, vary in their opinions.

4 My opinions -- my opinion, to say that a
5 four-percent increase in value isn't accurate or a one
6 percent or whatever it may be. I wouldn't agree with
7 that.

8 Q. How many, roughly speaking, would you say that
9 you've gone back and checked the -- the actual values
10 based on something -- on a study where it was
11 speculative.

12 A. None.

13 Q. So those that were doing predictive or
14 speculative like this LID, you've not checked to see
15 afterwards how -- how close you were?

16 A. Well, I guess I'm not following you. We did our
17 study as of an October 1, 2019, valuation date, and we
18 haven't been asked to do any additional valuation
19 subsequent to that.

20 So we haven't -- we haven't done a -- we haven't
21 been asked to do any additional valuation.

22 Q. Sorry?

23 A. We haven't been asked to do any valuation at a
24 later date. The October 1st, 2019, is our valuation
25 date.

1 Q. So at the end of the LID if -- I'm thinking
2 about condos, because comparable sales is the -- I don't
3 know enough about the -- about the other types of
4 things. But for the condos, were comparable -- or are
5 comparable sales, how you determine -- is the major item
6 to determine the special benefit?

7 A. For the condominiums, yes.

8 Q. So would you expect, then -- at the end of --
9 when this project was done, I think it was 2023 or 2024,
10 that comparable sales should be the same as what you are
11 predicting -- what you have predicted?

12 A. I have no idea of knowing that.

13 Q. What would you -- you would come up with
14 something, but would you expect it to be in 20 -- at the
15 end of the LID, if you did comparable sales, would you
16 expect those sales to match with what your prediction
17 was now?

18 A. It's impossible to know. I mean, I can't
19 predict the future. You know, markets tend to fluctuate
20 over time, so there's really no way to know.

21 Q. Would you say -- would you say, Mr. Macaulay,
22 that the sales values could be higher or lower than what
23 you -- what your predictions are?

24 A. In 2024?

25 Q. Yes.

1 A. That's possible, yes.

2 Q. So isn't that the real proof -- if you didn't do
3 the LID analysis until the end of the lid, your accuracy
4 would be right on, I guess, right? Because you would
5 just take a look at what those sales values are.

6 A. Well, there wasn't -- I don't mean to not answer
7 your question. That wasn't the scope of my study to how
8 the City wanted to finalize this LID, so my date of
9 value is obviously October of 2019. I just don't know
10 what the market value would be as of the date the
11 project would be finally constructed. There could be a
12 lot of elements in the market that did occur between now
13 and then that impact value.

14 Q. Sure. Okay. Had the City asked you to do the
15 LID analysis at the end of the LID completion, then --
16 then would you have just taken a look at comparable
17 sales values, and then that's what the -- the special
18 benefit would have ended up being comprised of?

19 A. Yes. It would have been a valuation as of that
20 2024, looking at the before-and-after market value
21 estimates.

22 Q. Okay. So when you take a look at October 19th,
23 doesn't that represent -- isn't that your prediction of
24 what you think it would be at the end of the LID?

25 A. No. It's -- it's an estimate of the market's

1 perception of what the difference of value would be as
2 of that date and time.

3 Q. Sorry -- I'm a little confused here. So,
4 Mr. Macaulay, if it's what your estimate is based on --
5 of October '19, then shouldn't comparable sales be of
6 that time for -- to match -- to be the after?

7 A. As of October 2019.

8 Q. Right. Because if the -- if the market is at a
9 value, like you've said, then shouldn't sales prices on
10 October -- or November 19th reflect what you -- wouldn't
11 that be the value?

12 A. Well, if you're looking at sales, say as of --
13 after the LIDs form, there may be some elements of the
14 purchase price that's recognizing that the LID's going
15 to be constructed. But they wouldn't reflect the
16 full -- the full value. There would be -- they would be
17 a reflection of the market as of that date and time.

18 So that's why we looked at other -- other
19 projects that had been done to try to ascertain the
20 market's reflection as what it would be as of October 1,
21 2019. And recognizing that there -- we would be looking
22 at the most recent sales we have under certain
23 conditions in the before and the six elements of the
24 project in the after, trying to reflect what the market
25 difference is at that time, assuming the project was

1 completed.

2 Q. Okay. I think I have one more question. And
3 it's a clarification, again.

4 So -- so the actual sales -- comparable sales at
5 the end of the LID period, 2023, or whenever it happens,
6 is totally irrelevant in the special benefit; is that
7 correct?

8 A. Well, they haven't occurred yet, so we -- we
9 can't consider them.

10 Q. Okay. So -- in whatever they happen to end up
11 being, does that have any -- I'll trying to ask you a
12 specific question.

13 So whatever the sales are at the end of the
14 completion, whether or not they reflect your special
15 benefit now, it's irrelevant; is that correct?

16 A. The market -- the market will be what it is in
17 2024. And -- and the sales -- the sales at that time
18 would reflect the market conditions as of that time.

19 Q. So your special benefit then is -- doesn't -- in
20 terms of your study, the special benefit doesn't care
21 what the sale -- comparable sales are at the end of the
22 LID; correct?

23 A. Well -- yes. We can't look and speculate on --
24 on something that may -- may be in the future. We're
25 looking at specific assumptions as of October 1, 2019,

1 in the before and after, and -- and arriving at a market
2 value conclusion based on that date and time, not a
3 future date and time.

4 MR. TANASE: Okay. I have no other
5 question. Thank you very much.

6 HEARING EXAMINER VANCIL: Thank you.

7 Mr. Jacobs?

8 Can you turn your screen on and microphone,
9 please.

10 MR. JACOBS: Do you see and hear me?

11 HEARING EXAMINER VANCIL: What case number
12 are you appearing for?

13 MR. JACOBS: I am representing Mr. William
14 Pitlick. CWF-0352. The personal number 516065-0260.

15 HEARING EXAMINER VANCIL: Thank you. Your
16 witness.

17 CROSS-EXAMINATION

18 BY MR. JACOBS:

19 Q. Hello, Mr. Macaulay, it is a pleasure to be able
20 to visit with you today.

21 About me, in July I'll celebrate my 40th year of
22 living directly across the street from both the Pike
23 Place Market and Victor Steinbrueck Park.

24 This is my first LID, so I'm looking forward to
25 having you clear up any misunderstandings I have over

1 how it works.

2 Let's start off with some of the big numbers
3 associated with the City's Waterfront LID.

4 I'll share my screen for Exhibit 3. Did we get
5 the exhibit up?

6 HEARING EXAMINER VANCIL: It is showing.
7 You may want to enlarge it a bit.

8 MR. JACOBS: How's that?

9 HEARING EXAMINER VANCIL: You want to use
10 the plus symbol, which is straight in the middle.

11 MR. JACOBS: Did we get there?

12 HEARING EXAMINER VANCIL: Yes.

13 BY MR. JACOBS:

14 Q. Exhibit 3 is a simple recap of the table at the
15 end of page 9 of 237 of the Final Benefit Study.

16 Does this look familiar to you, Mr. Macaulay?

17 A. I believe so, yes.

18 Q. I added a column of percentages to better
19 understand what the table is communicating. It shows
20 financial comparisons between the two major categories
21 of property owners identified in the study. Residential
22 condos and commercial properties.

23 Do you agree with that description?

24 A. That isn't something that I produced.

25 Q. The table or the percentages that I -- that I

1 added?

2 A. The percentages that you added.

3 Q. Yeah. Okay. But the rest of the information
4 should be consistent with what is on page 9?

5 A. I believe so, yes.

6 Q. Okay. So I added a column "percentages," to
7 better understand what the table is communicating.

8 It appears residential condominium properties
9 represent 9 percent of the lands' market value, and that
10 commercial properties represent 91 percent of the LID's
11 market value.

12 Is that -- is that -- does that match your
13 recollection of how -- how these major financial
14 considerations played out?

15 A. I haven't -- I haven't done the math,
16 Mr. Jacobs. So if those are the correct calculations,
17 that's how it works out.

18 Q. Let's assume on discussion purposes that my math
19 is correct, that I think upon review it will found to
20 be.

21 The table also shows that residential
22 condominium properties represent 14 percent of the LID's
23 special benefits, and that commercial properties
24 represent 86 percent of the LID's market value.

25 If the math is correct, would you agree with

1 that assessment?

2 A. If the math is correct -- if the math is
3 correct, that -- that would be the case.

4 Q. Okay. What do you distribute the difference to?

5 A. Well, the -- that the commercial properties are
6 benefitting to a larger degree than the residential
7 condominium projects.

8 Q. That's not my interpretation.

9 My interpretation is that the -- the special
10 benefits for the condominiums are higher than -- than
11 they were being charged in a sense for special benefits
12 that are at a higher percentage than are -- than are
13 ratio -- that are part of the market value of the
14 overall LID is at. Where 9 percent of the market value,
15 but being tagged for 14 percent of the benefits.

16 That -- that's -- that's something I'm having a
17 difficulty understanding why it would be like that.

18 I would expect that -- that the 9 and 91 ratios
19 for with and without the LID would carry through down to
20 the special benefit split between the commercial
21 properties and the condominiums.

22 HEARING EXAMINER VANCIL: Mr. Jacobs, do you
23 have a question for the witness?

24 MR. JACOBS: Yes. I asked Mr. Macaulay what
25 he attributes that difference to?

1 HEARING EXAMINER VANCIL: And he answered
2 that, and then you entered into explaining your
3 perspective.

4 This is not the time to explain your
5 perspective or arguments. You'll have the opportunity
6 to do that later.

7 Really -- I've mentioned this to the
8 objectors several times, making argument now, in my
9 opinion, doesn't get you anywhere. I'm not listening.
10 I'll listen when you -- when it is time for you to
11 present argument.

12 What I'm listening for is what evidence you
13 elicit from the witnessing by testimony. I'm anxious to
14 hear it, because you have questions for this witness and
15 that's what I'm listening for.

16 When you make argument in this segment of
17 the hearing, I'm not listening. And I'm willing to
18 bet -- based on the performance of the past few days,
19 Mr. Macaulay is not being convinced either.

20 I'm not sure who you are all trying to
21 convince at this moment. If you could ask questions of
22 the witness and elicit responses, then we can have that
23 as part of the evidentiary record, and you can make your
24 arguments when it is time to do that with the
25 opportunity of briefing and argument, you can provide

1 it.

2 Please proceed with questions for the
3 witness.

4 MR. JACOBS: Thank you for that feedback.

5 BY MR. JACOBS:

6 Q. Before moving away from this exhibit, the last
7 line of the table shows that the LID's total special
8 benefit amount is \$447,908,000.

9 Do you see that on the last line, Mr. Macaulay?

10 A. Yes, I do.

11 Q. I'm changing exhibits and I'm increasing the
12 size.

13 Can you see this exhibit, Mr. Macaulay?

14 A. Yes. It's -- it's legible enough.

15 Q. Let me see if I can --

16 A. If you could enlarge it just a little bit, that
17 would be great. That's a little better, Mr. Jacobs.

18 Q. That's about the best I can get.

19 "The total estimated cost" -- this is from the
20 Final Benefit Study. "The total" -- page 10 -- "The
21 total estimated cost for the LID improvements is
22 \$346 million. However, as the date -- as of the date of
23 this document, the City of Seattle has set a cap of
24 \$160 million plus financing costs, bringing the total to
25 \$175 million."

1 And that's the portion of the cost to be paid by
2 owners of properties specially benefitted by the
3 project.

4 Dividing \$157 million by the total estimated
5 special benefit to assessable property of 447 -- almost
6 \$448 million yields a cost benefit ratio that you
7 calculated at 39.2 percent.

8 "In other words, each parcel receives one dollar
9 in market value increase (special benefit) for each
10 \$0.39 of LID assessment.

11 "Multiplying the individual special benefit
12 estimates for the affected parcels by this constant
13 cost/benefit ratio results in recommended proportionate
14 final assessments to each parcel."

15 I found that difficult to understand. So I
16 tried to humanize it by taking all of the values, the
17 numbers of that paragraph and dividing them by 1,000.

18 And then to further my humanized example, I
19 placed it in the context of my limited neighborhood.

20 And my analogy goes like this:

21 A neighboring couple, three blocks away from my
22 home, redo their walkways and add some additional
23 landscaping with cost for \$34,600.

24 Shortly afterward, the City notifies me and
25 other surrounding neighbors that because of my

1 neighbor's improvements, our assessed valuations have
2 increased by \$44,790, and then our property taxes will
3 be higher in every future year because of that.

4 Lastly, additionally, the surrounding neighbors
5 get another letter from the City billing them for a
6 total of \$17,550. Since the neighbor ran out of money
7 and could not fully pay for the project's costs.

8 Does that simplification of what you've written
9 on page 10 of the Final Benefit Study seem useful to
10 you? Do you understand what I'm trying to communicate
11 here?

12 A. Are you trying to communicate that -- what's
13 going to happen if the project costs increase?

14 Q. No. Basically, what I've done is I've gotten to
15 a point where the 44,000 -- \$44,790 assessment is almost
16 30 percent more than the cost of improvements. And --
17 and I -- I don't understand why that is.

18 HEARING EXAMINER VANCIL: Do you have a
19 question for the witness, Mr. Jacobs?

20 BY MR. JACOBS:

21 Q. Yes, I was hoping that the witness --
22 Mr. Macaulay could shed some light on why -- why the
23 assessment is 30 percent more than the cost of the
24 improvements?

25 A. Well, the assessment -- the 175,500,000 is

1 capped. And that's -- that's been -- been set. And
2 anything over that, the City would be responsible for.

3 So as you can tell, the 39.2 percent ratio we're
4 coming up with -- is spelled out in front of you there.
5 So what we're simply saying is that if your property
6 goes up, say \$10,000, it's costing you 39.2 percent of
7 that -- that \$10,000 figure.

8 Q. Okay. Thank you.

9 So -- so within the context of my little story,
10 that sounds like my rich uncle decided to contribute
11 money to this -- money that -- that represents the
12 difference between the assessment and the cost of the
13 improvements.

14 I'll move on to a different -- move off of this.

15 Moving to Exhibit 2. I'll just make this quick,
16 because basically the last exhibit I showed that the
17 benefits are attributable to property owners are higher
18 than costs, which is backwards from the way most -- most
19 improvements work.

20 Typically, when we're -- when we're trying to --
21 when we're building -- remodeling our own personal
22 residence, if we were to turn around after the sale and
23 sell, we would only get -- we would only return a
24 portion of our cost.

25 And it seems like the math for the LID doesn't

1 quite work that way. And I'll just move off of that to
2 a different place.

3 Was proximity to the -- for example, of the Pike
4 and Pine improvements as important in the valuation
5 process as proximity to the waterfront?

6 A. Was the proximity -- are you talking about your
7 specific condominium?

8 Q. Not my specific condominiums, but the properties
9 within the LID, as a whole, as a generalization?

10 A. It was -- it was project specific. I think the
11 elements of the over -- the Overlook Walk and the
12 Promenade proximity to those elements typically
13 reflected the higher difference -- difference in value.
14 There was more market appeal to those -- those types of
15 amenities close to the waterfront as they were further
16 away.

17 Q. Okay. So if different LID projects were
18 assigned a different proximity of waiting, which I think
19 is what you're talking about --

20 A. No. No, I'm not talking about that. Each -- as
21 I mentioned numerous times -- I mean the project is
22 looked at as one entity, consisting of six elements.
23 And then we're just looking at a specific property
24 within the LID boundary areas, market value is just --
25 market value change is just reflected on where it is in

1 relation to the overall LID amenities and its relative
2 location to that particular property.

3 Q. So, since proximity is such an important aspect
4 of valuation to the Crompton research that you kind of
5 relied on heavily for background information, where's --
6 where's the starting point for mapping to individual
7 properties?

8 And that's what I'm really getting at by trying
9 to understand, for example, are the improvements in the
10 Pioneer Square area, as important to properties located
11 close to -- to Pike Place Market? Are those getting
12 equal -- equal weighting?

13 A. Well, I think what you would find, Mr. Jacobs,
14 if you looked at condominium properties in the Pioneer
15 Square area, depending on where they're at and depending
16 on the location, if you're near the Pike Place Market
17 element -- element -- amenities, that I think they would
18 typically be higher around the Pike Place Market area
19 than -- than the Pioneer Square area and just in a
20 general context of what we found -- what we found in the
21 market.

22 Q. So in a sense -- what I think I'm hearing you
23 say -- is that there's no -- there's no starting --
24 there's no discrete starting place for mapping -- for --
25 for creating maps that -- that would -- that would

1 represent distances that a say, for example, condominium
2 is located away from LID improvements. That -- I
3 think --

4 A. Correct. No -- (audio disruption).

5 Q. Am I hearing that -- that measuring -- the
6 measurements of any type to a property from somewhere
7 within the LID is meaningless?

8 A. Well, the -- the markets don't act like robots
9 where you go out 20 feet or a hundred feet and, boom,
10 actually you've got certain -- certain increases in
11 value. And also due to different elements of the
12 project. So that's why we try to look at each
13 project -- we looked at each parcel on -- on its own,
14 and we didn't just rely on some sort of statistical
15 analysis of distance equals -- equals value or something
16 like that.

17 We did it more on a parcel-by-parcel basis. So
18 no, we didn't have a distance map type of -- of exhibit
19 or anything of that nature.

20 Q. Okay. So in my particular case, then, and in
21 the situation for all of the other owners in my
22 condominium, which is known as Market Place North. We
23 live across the street from Pike Place Market. We live
24 across the street from Victor Steinbrueck Park, which
25 has an expanse of green grass and berms, and it's quite

1 pleasant to look over. We're also at an elevation
2 that's considerably higher than any of the LID
3 improvements that have a view of the waterfront.

4 So -- so how does that factor into what you've
5 just said about the Market Place.

6 My thinking -- my guess, is -- as a Market
7 participant, that if I was a perspective buyer of my
8 apartment, my condominium apartment, that I would pay
9 much more attention to the green grass that I can see
10 and parked across the street in my proximity to the Pike
11 Place Market and that LID improvements further away are
12 really meaningless to me.

13 Is that -- is my view of -- of the market make
14 sense to you?

15 A. I can understand where -- where you're coming
16 from, yes.

17 Q. Worksheets were used for commercial properties,
18 but not for condos.

19 For clarification purposes, I -- I understand
20 why you didn't make worksheets for each condominium
21 apartment in a condominium project, but did you create
22 worksheets for the condominium project as a whole?

23 A. Well, they're summarized on our -- on our
24 work -- our analysis sheets that are in the report. The
25 excel spreadsheets that are within the report.

1 Q. I've seen those, but they're really just -- the
2 highest level -- highest levels of information.

3 I'm just kind of wondering how you organized
4 their work. How you pulled together the different
5 parts, the different factors that you used to determine
6 the valuation for any given condominium project.

7 It seems like you would have -- there are only
8 40 -- or 45 condominium projects. It seems like you
9 would have created some type of a -- of an organizing
10 worksheet to accumulate that information.

11 And my understanding that you did not do that?

12 A. Yeah, our findings are just summarized on the
13 Excel sheets. There's no separate worksheet for each
14 condominium development.

15 Q. Okay. Thank you.

16 How many factors or data points were used to
17 evaluate the condominium special benefits? Just
18 roughly? You know, were they five or ten or --

19 A. Well, again, it would depend on -- on the parcel
20 and that attributes of the individual property. We
21 would look at its size, its age, its physical
22 characteristics, its use. Those -- those factors,
23 both -- both before and after the -- the -- the LID
24 improvement elements.

25 Q. So -- so can you provide a listing of the two or

1 three most important factors that you used to -- to
2 calculate, to compute your special benefits?

3 You said, size, age -- it would seem that --

4 HEARING EXAMINER VANCIL: Let's let the
5 witness answer the question, Mr. Jacobs.

6 We really need to tighten it up. We are
7 getting a lot of explanation and discussion with each
8 question. If you could just state the question and let
9 the witness answer, it would be appreciated.

10 BY MR. JACOBS:

11 Q. Okay.

12 A. Yeah, so the main elements relative to -- to
13 condominiums would have been -- would have been their
14 location change before and after the -- the LID -- the
15 LID improvements, their enhanced market appeal,
16 recognizing the size of the unit, the physical
17 characteristics of the unit as they existed in the
18 before and after and the impact -- the proximity impact
19 they would have had to the various elements of -- of the
20 LID improvements.

21 Q. Okay. Thank you.

22 So condominium projects for literally next door
23 to one another on the same block, somewhere across the
24 street from one another but experienced -- but in both
25 of those situations some experienced benefit differences

1 of one half of a percent.

2 Could you describe how your valuation rules
3 generated such results?

4 A. Well, we just get back to proportionality when
5 we're reconciling differences, if we felt there were
6 some elements in the market that one property's location
7 was slightly better from the before and after, and
8 another's -- there may -- there may have been some small
9 differences to try to maintain a proportionality
10 throughout the condominium project within the LID
11 boundary area.

12 Q. Was convenient access to the waterfront via
13 existing routes a factor in the computation of special
14 benefits?

15 A. We looked at the connectivity of the properties'
16 location in the before condition and in the after
17 condition.

18 Q. For example, if a condominium had more
19 convenient access to the waterfront via existing routes
20 than they would via another major route such as Overlook
21 Walk, how would that factor into the valuation process?

22 A. That would just depend on -- on parcel by
23 parcel. And most cases, the Overlook Walk added more
24 access points and more variety of access routes to -- to
25 the waterfront than the before condition.

1 Q. Would -- would utilization of the well-designed
2 and maintained on Lenora Street, the pedestrian bridge,
3 change your answer any?

4 A. Well, that -- that element would be the same
5 both in the before and the after condition.

6 Q. All right. Let's say that I had very convenient
7 access to Lenora Street. Would that, in your view,
8 diminish the importance of access via Overlook Walk?

9 A. Well, again, we would look on what -- what a
10 typical buyer in the market would -- would consider as
11 far as market appeal and connectivity and -- and
12 other -- other relevant factors in the market.

13 So proximity to Overlook Walk, we looked at --
14 we looked as a positive amenity in the market. And
15 recognized that the properties had existing access in
16 the before from -- from potentially different --
17 different avenues of not -- not avenue, streets, but
18 different ways.

19 Q. Thank you. Let me move to another exhibit.
20 And I have to change my share screen.

21 A. That's a little better, Mr. Jacobs. Yeah.

22 Q. Okay. Is that big enough? I can expand it a
23 little bit.

24 A. No, I think I can read that. There you go.
25 That's fine. Thank you.

1 Q. Okay. This -- Exhibit 6 was built in an Excel
2 spreadsheet. And there will be a couple more to follow.

3 It recreates a small part of the waterfront
4 central business district in the spreadsheet with
5 percentage values representing different condominium
6 projects. The exhibit shows three groups of condos
7 located within three circles. We know the proximity to
8 LID improvements is important. But is the importance of
9 the proximity to one LID improvement different than
10 proximity to another LID improvement?

11 I know we've touched upon this, but this expands
12 it.

13 The goal of this exhibit is to answer the
14 question and the answer appears to be that for
15 condominium's proximity to Pike and Pine is immaterial
16 in their valuation.

17 From -- from what you see on -- on the exhibit,
18 does -- does this exhibit confirm that Pike and Pine is
19 not a driver of a special benefit for condominiums, and
20 that other factors are really in play?

21 A. Well, again, Mr. Jacobs, we're looking at -- I
22 don't know what specific condominium projects you are
23 referring to relative to, say, Pike and Western or
24 Stewart and Alaskan Way and so forth. I think it shows
25 a proportionality, in a sense, that the property is

1 located closer to the waterfront elements along Alaskan
2 and Western within the Stewart and Union area that are
3 closer to the Overlook Walk and other elements benefit a
4 little bit more than the condominium projects down --
5 further down closer to Pioneer Square that don't --
6 don't have the Overlook Walk and some of the unique
7 amenities that are associated with -- with the Overlook
8 Walk at the end of the Pike/Pine corridor and the Pike
9 Place Market area.

10 Q. Okay. Good. Thank you.

11 I'll scroll down this sheet. And by the way, on
12 the prior sheet, the condominiums were a very high
13 value, high special benefit percentages. And, likewise,
14 on this sheet, these are commercial properties. They're
15 the properties that were on the Perkins Coie motion.
16 Mostly hotels, office buildings. But mostly hotels.

17 And basically this seems to -- this is a little
18 bit more convoluted, but I think it's important for
19 commercial properties. It seems like the waterfront
20 remains the driver of special benefit percentages for
21 commercial properties are much more so in proximity to
22 Pike and Pine.

23 Would you agree with that assessment?

24 A. Well, it's real difficult for me to ascertain
25 what properties you're comparing to what, and not

1 knowing that -- not knowing what elements went into our
2 market value conclusions.

3 So this looks very difficult for me to ascertain
4 kind of where you're -- where you're going with this.

5 Q. Okay. I have to go back to the other screen, so
6 we won't have to do this again.

7 Okay. Loading Exhibit 7.

8 You know, I think basically -- you basically
9 answered that measurements don't mean a whole lot.

10 We'll enter it anyway. Basically, what I did
11 was I created incremental measurements from the
12 waterfront to 8th Avenue on a block -- essentially, a
13 block-by-block basis so that with cumulative distances
14 could be referred to on a street-by-street basis. And
15 that's summarized in the -- on the second page of this
16 exhibit.

17 Incremental differences from Alaskan Way to 8th
18 Avenue. And down below a second table of incremental
19 distances from the Overlook Walk to 8th Avenue? I have
20 thought that these large distances --

21 HEARING EXAMINER VANCIL: Mr. Jacobs?

22 Mr. Jacobs?

23 So, once again, you're taking a document and
24 you are explaining it. You are not asking a question of
25 the witness.

1 I'm not understanding, at this point, what
2 I'm missing in explaining to you that you should not be
3 giving testimony.

4 MR. JACOBS: Okay.

5 HEARING EXAMINER VANCIL: All of this is
6 stuff you can put in a briefing in your argument,
7 written argument, which is due in a week -- in a couple
8 weeks -- we'll go over the dates tomorrow. But it's not
9 today.

10 MR. JACOBS: Okay.

11 HEARING EXAMINER VANCIL: The opportunity
12 now is to ask questions of the witness.

13 So if you have questions of the witness,
14 please stick to those and move along so that we can get
15 to other folks and get to the other witnesses as well,
16 please.

17 MR. JACOBS: Okay. Thank you.

18 HEARING EXAMINER VANCIL: It's not that you
19 can't present it; it is just not the time to do it.

20 MR. JACOBS: I'm beginning to understand
21 that.

22 BY MR. JACOBS:

23 Q. Okay. Exhibit 9 is a map showing the -- I
24 believe we covered this. This basically is showing the
25 difference -- THE two different access points to the

1 waterfront from a condominium. One is a lot further;
2 One is a lot shorter.

3 HEARING EXAMINER VANCIL: Mr. Jacobs, let me
4 be a little more clear. We are not admitting exhibits
5 that you do not ask questions of the witness about.

6 So I don't need you to explain them all. I
7 need you to move to the point where you are asking
8 questions.

9 And exhibits you do not introduce today
10 because they were not related to questions, will come in
11 at a later day.

12 MR. JACOBS: So I can present the
13 exhibits --

14 HEARING EXAMINER VANCIL: Those will come in
15 during your briefing; yes. Closing briefing is when you
16 get to make your argument. You submit a declaration.
17 You get to say whatever you want then in response to
18 what comes out of cross. And that's the appropriate
19 time to do that.

20 Today is purely about eliciting responses
21 from the witness.

22 MR. JACOBS: Getting it slowly.

23 HEARING EXAMINER VANCIL: So do -- I
24 strongly encourage you to look ahead at your plan. And
25 it looks to me like you planned on something different.

1 So don't stick to the plan. Look through there and see
2 what you had related to questions for the witness.

3 Set aside the rest of all. All of it is
4 good stuff. I can see what you're doing. And I look
5 forward to seeing it in a brief, but that's the
6 appropriate place for it.

7 Because right now we've got 28 other people
8 on the line. Some of them waiting to get their turn.
9 And I'm waiting to get to the point where we get
10 responses from the witness, because that's what I'm
11 listening for. So all the rest of this is just a
12 distraction today.

13 BY MR. JACOBS:

14 Q. Okay. I'll stop share.

15 From Wednesday's cross-examination, I noted that
16 you agree that different property classes experienced
17 different amounts of special benefit.

18 I think the example you offered was that office
19 properties would not benefit as much as retail
20 properties from the LID's improvements.

21 Did I capture that information correctly?

22 A. That -- that was typically true. Again, that
23 would depend on the location of the office building.
24 Also a number of the office buildings had a substantial
25 amount of retail associated with them, so it would

1 depend on a variety of factors.

2 Q. Okay. Were there any adjustments to special
3 benefits for lost parking on the waterfront?

4 A. We looked at parking loss, and it was considered
5 in our reconciliation process of -- of properties that
6 were impacted by the loss of parking.

7 Q. And -- and did you decrease any of those special
8 benefits percentages due to the loss of parking that --

9 A. I don't believe so.

10 Q. (Cross talk).

11 A. The special benefit percentage is just the
12 difference between the before-and-after value. So in
13 going through the reconciliation process, we -- we
14 recognized that -- that the parking element, in
15 relation -- in the after to relation to other positive
16 elements that may have somewhat offset it. So it would
17 have been considered in our analysis, but there wasn't a
18 specific parking study done.

19 Q. So in that -- in that review, that you just
20 referred to, were there any examples where the
21 valuations were decreased because of the loss of
22 parking?

23 A. Well, there -- there are examples that would
24 have been done more without our internal reconciliation
25 process, as we were going through and doing our work.

1 So we don't have anything in -- in -- in a
2 report context to show that. But it was part of our
3 internal review and reconciliation process to where we
4 made a determination on how much impact from the before
5 and after the loss of parking would have, if any.

6 Q. Okay. So Mr. Compton introduced the concept of
7 disamenities.

8 Do you take that -- did you people take that
9 into consideration -- the concept and consideration that
10 it was some -- some of the benefits -- some of the LID
11 improvements create benefits for properties that -- that
12 aren't valued as much by other property classes.

13 For example, congestion on sidewalks and
14 restaurants due to increased tourism due to the LID
15 improvements, you know, was that considered a -- in your
16 computation of the special benefits for condominium
17 residents who lived in the City full-time and would be
18 impacted by some of those -- some of those things
19 brought about by the LID improvements?

20 A. Yes. We heard a lot of information from
21 property owners in that realm where the -- the influx of
22 tourists would impact their -- their condominium.

23 So as much as possible it was relevant in the
24 market, we tried to consider that and be cognizant of
25 it.

1 Q. Is there any documentations or is there any
2 audit trail that -- that -- that could be made available
3 to property -- to property owners?

4 A. A lot of what we do with the mass appraisal is
5 go through and do a lot of internal review and a
6 discussion of individual properties when we're
7 finalizing our valuation and talking about the different
8 elements that effect value both in the before and again
9 the after.

10 So we don't have a document that relates to
11 that. Again, if we were to write an individual report
12 on a property, if we were instructed to, and asked to
13 elaborate on elements like that, then we -- we would
14 have enough information in our files to do so.

15 But it wasn't really the scope of the assignment
16 of the mass appraisal, just due to the sheer number of
17 properties to go to that level of detail.

18 Q. Okay. Thank you.

19 Walking along the waterfront area included in
20 the LID's boundaries, I notice that there are not very
21 many expansive views of Elliot Bay between Coleman Ferry
22 Terminal in getting bigger and the many highly developed
23 piers populating the waterfront.

24 How much did you discount that aspect of our
25 waterfront when comparing it to some of the other

1 waterfront locations in different cities that -- that
2 you reviewed?

3 A. Well, a lot of the studies in other city --
4 cities in the before condition were significantly
5 different than the Seattle waterfront. So we -- we
6 relied heavily in the before condition on -- on existing
7 market data and -- and conditions relative to the before
8 just with -- but also recognizing that the viaduct was
9 removed and that assuming Alaskan Way was in place.

10 Q. So are you saying that -- that the condition of,
11 say, for example, the Embarcadero waterfront and the
12 Elliott Bay waterfront, that -- that the before
13 condition is what ruled the day and not the after.

14 I guess what I'm getting at is -- when I look at
15 the Embarcadero's waterfront or many of the other
16 waterfronts for the comparable -- comparable projects,
17 your waterfront seemed to be much more expansive and
18 unimpeded than our waterfront.

19 And it seems -- I'm wondering if you noticed
20 that too and you made adjustments. You took that into
21 account.

22 A. Well, as much as possible, in the before
23 condition, we're looking at all of the relative factors
24 that go into the buyers' and sellers' thought process in
25 selling property under those conditions. So a lot of

1 those properties have very nice view amenities on deck,
2 some on the other side of the property. You know, very
3 nice views of the sound and things of that nature.

4 So as much as possible in that context, you
5 know, we considered each property individually and --
6 and provided a value based on amenities both before and
7 after the LID.

8 Q. Okay. Thank you.

9 Is the central waterfront currently a park
10 similar to those in that John Crompton researched?

11 A. Is the before condition considered a park? Is
12 that your question?

13 Q. Yes.

14 A. No, I wouldn't consider the before condition a
15 park.

16 Q. Let's see. Just one more. I'll share another
17 exhibit with you.

18 Can you see the shared exhibit?

19 A. Yes. If you could enlarge it a little bit.
20 That would be helpful.

21 Q. Just looking at that now. Okay.

22 Exhibit 5 is the list of LID improvements
23 provided by Exhibit C from the City resolution number
24 31812. I marked it up with red underlining to emphasize
25 what I've seen.

1 I would imagine that you're familiar with this
2 document without the red underlining; is that correct?

3 A. I've seen similar -- similar documents and
4 verbiage of the various elements.

5 Q. Looking through that exhibit, do you see -- do
6 you see the LID improvements as a group creating a new
7 park?

8 A. Well, I see elements of the -- I see park
9 elements within the context of the six elements.

10 Q. Could you point out which ones stand out to you,
11 please?

12 A. Yes. I think as far as ones that -- that stand
13 out as park-like amenities?

14 Q. Yes.

15 A. Yes, the Promenade. I think the Overlook Walk
16 is going to have really unique park-like amenities, open
17 space. Obviously, and the waterfront park. The other
18 three, the Pioneer Square and Union Street and
19 Pike/Pine -- as they're described they're more
20 pedestrian friendly streetscapes, a better connect to
21 the access points to the waterfront and to the Promenade
22 area.

23 Q. So these -- are the park-like attributes that
24 you described, are these consistent with the -- with
25 the -- with the park attributes that Dr. Crompton

1 researched?

2 A. I think they're elements of similarity.

3 Q. And -- and what would those elements of
4 similarity be like? Could you describe those?

5 A. Yeah, mainly the open space elements that are
6 typical of parks.

7 Q. So are you considering the new roadway and the
8 dedicated bike lanes and the sidewalks as open space?

9 A. No, those are more streetscape-type
10 improvements.

11 Q. Where specifically? What areas would you define
12 as open space?

13 A. Well, I'm just looking at the area -- the
14 Overlook Walk will have -- a large elevated surface area
15 that will be an open space and have view amenities, and
16 then really easy access down to the Promenade area,
17 which has a lot of open space.

18 And the waterfront park, obviously is -- is --
19 the rebuilt -- rebuilt pier that will have park-like
20 amenities, and very nice view amenities.

21 Q. Okay. Thank you.

22 Let's look at a different. This is Exhibit 15.
23 Let's see if I can get it a little bit bigger.

24 It's a comparison of keyword counts for two of
25 the City's key documents compared to Dr. Crompton's

1 research document.

2 I understand that you relied heavily on
3 Dr. Crompton's research as background information. I
4 did three keyword searches. The words were "sidewalk,
5 street, and connection." And I did those for each of
6 those three documents. And the Final Benefit Study has
7 412 hits or uses of those three terms. And
8 Dr. Crompton's paper shows 18.

9 What does that communicate to you?

10 A. I don't know. We have -- we actually looked at
11 two different Dr. Crompton studies. One was also a 2014
12 article that I don't think you've got included in there.

13 Q. My understanding is that the 2014 article is
14 really the 2004 article, from Dr. Crompton's testimony.
15 I seem to recall that he said that he thought your use
16 of the 2014 was a typo.

17 A. No, no. There is a separate. There is a
18 separate article from 2014 that he authored with Peter
19 Hemic. I'm not sure I'm pronouncing his name correctly.
20 It would be in our back -- background information, if
21 you wanted to review it.

22 Q. What was that? Was that? Was that report made
23 available to us?

24 A. Yes. It would be in the Clerk's file.

25 Q. And that report was done by a different author,

1 not Crompton?

2 A. It was done by Dr. Crompton and Peter Hemic or
3 "Hem-lick." I know I'm mispronouncing the --

4 Q. Sure. And -- and you think that -- that that --
5 that paper would create a change -- the number of times
6 that Crompton used the word "sidewalk, street, or
7 connection"?

8 A. I have no idea. And I'm struggling with the --
9 the question you're trying to raise here to me, by
10 showing this.

11 Q. Okay. The question is: It appears as though
12 Dr. Crompton's work has no relevance to -- to your
13 appraisal process. They seem like -- they seem like
14 they're talking about two very different versions of --
15 of the word "park." And I'm trying to understand how --
16 how you used Dr. Crompton's work to build -- build your
17 model when Dr. Crompton's work appears to be so very
18 different than -- than what we're dealing with as far as
19 LID improvements?

20 A. Well, if you would have, perhaps, word searched
21 for "park," "open space," things of that nature, you
22 might get a different -- different finding.

23 As I testified earlier, that -- the sidewalk and
24 streetscape-type -- type of improvements typically came
25 from other studies, other than Dr. Crompton's study.

1 Q. Yes, they did come from other studies. But --
2 but those -- it seems like, correct me if I'm wrong,
3 that you emphasized that for condominium properties,
4 that proximity to a park was -- was really important and
5 justified the special benefit percentages that you came
6 up with.

7 Am I recalling that incorrectly?

8 A. It was an element of studies such as
9 Dr. Crompton's that -- that showed that the proximity to
10 open space was a desirable element for residential
11 properties.

12 Yes, we considered that; that's why I'm not
13 getting your logic when you have a word search of
14 "sidewalk" and "street."

15 And when -- if you're trying to relate it to a
16 park, it seems like you would have the "park/open space"
17 word counts to see any relevance.

18 But I guess I'm not understanding what you are
19 trying to explain to me here or what your question is.

20 Q. Let me ask it a little different.

21 Would the LID improvements create a natural
22 resource-based park similar to those that Dr. Crompton
23 researched?

24 A. Well, again, the project has a lot of unique
25 elements, and that's why we looked at a lot of different

1 studies. So the Crompton study doesn't -- doesn't
2 provide an exact basis for what's being constructed by
3 the LID improvements.

4 But it provides a level of similarity that we're
5 able to look at and ascertain how other open-space-type
6 amenities impact the residential market.

7 Q. Okay. I hear that, but when -- when you start
8 referring to the studies like HR&A study and the street
9 study in New York, those seem to be aimed by you at your
10 commercial properties than condominium properties.

11 Have I interpreted that incorrectly?

12 A. Well, there -- they're meant as an overall look
13 at the project which would include condominiums and
14 commercial properties.

15 Q. Okay. On an overall basis, how would you
16 describe the three or four major characteristics shared
17 by the parks in Dr. Crompton's study?

18 A. I guess I'm not following your question there.

19 Q. Okay. Dr. Crompton studied a bunch of studies
20 that studied parks, and -- and those parks have defining
21 characteristics. And since you used Dr. Crompton's
22 work, I'm thinking that -- that you understood -- you
23 understand what he found of importance in the work that
24 he did.

25 And so, you know, you've described

1 characteristics that -- that are attractive, associated
2 with the LID improvements.

3 But what were the major characteristics that
4 you -- you found reflective of value that you could use
5 for -- the Seattle Waterfront LID improvement, what
6 characteristics from his studies that you -- did you
7 rely upon to use his work for the LID?

8 A. Mainly, the -- the positive amenity that --
9 within a range that properties -- residential properties
10 proceed from being near or next to parks and open space
11 amenities.

12 Q. And -- and what -- what were those -- what were
13 the amenities that those -- that those adjacent
14 properties were looking -- were looking for?

15 Were valuing as important characteristics of
16 Dr. Crompton's subject properties?

17 A. Well, again, we're using Dr. Crompton's study
18 for background information, because our elements that
19 we're comparing to the types of studies that he's
20 looking at have differences. So we're recognizing that
21 in -- when using it for background purposes in our
22 studies. So we're not -- we're not doing a -- a --
23 trying to take his studies and just say, well, these are
24 exactly similar to what we're trying to relate to,
25 because they're not.

1 So we're -- we're using -- we're using it as a
2 tool to recognize that the market is -- is reflect
3 positive market value increases for residential property
4 due to the proximity to elements like that that are
5 being constructed by the LID project.

6 Q. Thank you.

7 So if I -- if I said that nature -- nature
8 resource characteristics were important in
9 Dr. Crompton's research, would -- would you -- would you
10 agree?

11 A. Define "nature of resources."

12 Q. Things that are alive and green, for the most
13 part. They could be in water. They could be growing --
14 growing trees, grasslands, hills and valleys. Things --
15 things that -- that we don't have in -- in the City.
16 Things that attract us to -- to nature in places that
17 have nature because we live in downtown central business
18 district and don't have those available to us?

19 A. Well, I think that's part of what the Promenade
20 type of construction is trying to create as much as
21 possible is -- is the sense of -- of open space. Much
22 more greenery, trees, more of a nature feel, than --
23 than in the before situation.

24 So in that context, we -- we would to look at --
25 that a comment like that in Dr. Crompton's study and

1 recognize that, you know, we're in an urban area
2 compared to a different type of park element, he may
3 be -- he may be discussing. But again, it's used for
4 purposes of -- of the similarity or background
5 information to -- to help us make our decisions.

6 Q. Thank you. On a scale of 1 to 10 --

7 HEARING EXAMINER VANCIL: Mr. Jacobs?

8 Mr. Jacobs? Five o'clock. I want to check in with you.

9 You originally indicated your cross-examination was
10 going to be 45 to 60 minutes. Some of that obviously
11 planned to present some of your own argument. I asked
12 you to exclude that, so hopefully that trimmed some of
13 that time out.

14 How much time remains with your
15 cross-examination?

16 MR. JACOBS: Thinking, thinking, thinking.

17 Well, I would be happy with 20 minutes.

18 HEARING EXAMINER VANCIL: Recognizing it is
19 five o'clock, we'll adjourn for the day. We'll return
20 tomorrow, Friday, June 26th at 8:30 a.m., at which time
21 we'll start with the City's witness, Foster Marshall on
22 cross.

23 And after that, we can pick up with
24 Mr. Macaulay and finish that up with Mr. Jacobs and
25 Ms. Gruen, and then follow that with Mr. Ethans

1 (phonetic).

2 And I'd just like commending -- Mr. Jacobs,
3 please make sure you go through and tighten up things so
4 we're asking questions and not having to give such long
5 explanatory statements to ask your question.

6 MR. JACOBS: Will do. Thank you.

7 HEARING EXAMINER VANCIL: You've got some
8 time to clean that up. See you all tomorrow. We are
9 adjourned.

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11 (Hearing adjourned at 5:05 p.m.)

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STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I, CRYSTAL R. McAULIFFE, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the remote hearing on JUNE 25, 2020, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 30th day of June, 2020.

Crystal McAuliffe



CRYSTAL R. McAULIFFE, RPR, CCR #2121