Edlund-Cho, Galen

From: Filipini, Mark <mark.filipini@klgates.com>
Sent: Thursday, December 03, 2020 3:33 PM
To: Dave Bricklin; Edlund-Cho, Galen
Cc: jgruen@g3mh.com; Thompson, Gabrielle E.; Lee, Engel; Khaleghi, Kristina; Mahon, Robert (Perkins Coie); Lin, Megan (BEL); Stillwell, Jacob (SEA); Nichols, Clark R. (BEL); Kymberly.Evanson@pacificalawgroup.com; Becky Witmer; Todd Reuter; Lutz, Jerry (BEL); Thompson, Gabrielle E.; Lee, Engel; Khaleghi, Kristina; Peggy Cahill
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]
Attachments: 2020-12-03 City Opposition to ACT Theatre Motion_USW_Active01_503907339_2 Mark.pdf

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: External Email

Attached please find the City's response.

Thanks,
Mark

Mark S. Filipini
Partner
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, Washington 98103
Phone: 206-370-8111
Fax: 206-370-6060
mark.filipini@klgates.com
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From: Dave Bricklin <bricklin@bnd-law.com>
Sent: Thursday, December 03, 2020 1:47 PM
To: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>; Filipini, Mark <mark.filipini@klgates.com>
Cc: jgruen@g3mh.com; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>; Mahon, Robert (Perkins Coie) <RMahon@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Stillwell, Jacob (SEA) <jstillwell@perkinscoie.com>; Nichols, Clark R. (BEL) <Cnichols@perkinscoie.com>; Kymberly.Evanson@pacificalawgroup.com; Becky Witmer <Becky.Witmer@acttheatre.org>; Todd Reuter <todd.reuter@foster.com>; Lutz, Jerry (BEL) <jlutz@perkinscoie.com>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>; Peggy Cahill <cahill@bnd-law.com>
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]

Our motion is attached. Thank you.

David Bricklin

Bricklin & Newman, LLP
1424 Fourth Avenue, Suite 500
Seattle, WA 98101
1-206-264-8600
1-206-264-9300 (fax)
bricklin@bnd-law.com
http://www.bnd-law.com

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!

From: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>
Sent: Thursday, December 3, 2020 1:28 PM
To: Filipini, Mark <mark.filipini@klgates.com>; Dave Bricklin <bricklin@bnd-law.com>
Cc: jgruen@g3mh.com; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>; Mahon, Robert (Perkins Coie) <RMahon@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Stillwell, Jacob (SEA) <jstillwell@perkinscoie.com>; Nichols, Clark R. (BEL) <Cnichols@perkinscoie.com>; Kymberly.Evanson@pacificalawgroup.com; Becky Witmer <Becky.Witmer@acttheatre.org>; Todd Reuter <todd.reuter@foster.com>; Lutz, Jerry (BEL) <jlutz@perkinscoie.com>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]

Good afternoon, Mr. Filipini.

In anticipation of the filing of Mr. Bricklin's motion, the nature of which is discussed in a prior email, the City should be prepared to respond if desired. Assuming that Mr. Bricklin's motion is filed, the Hearing Examiner intends to issue a same-day decision.

Sincerely,

Galen Edlund-Cho
Legal Assistant
City of Seattle Office of Hearing Examiner
700 Fifth Avenue, Suite 4000, Seattle, WA 98104
Direct: 206.615.1718 I Fax: 206.684.0536 I Galen.Edlund-Cho@seattle.gov

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From: Edlund-Cho, Galen
Sent: Thursday, December 03, 2020 11:24 AM
To: Dave Bricklin <bricklin@bnd-law.com>
Cc: jgruen@g3mh.com; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel

<Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>; Mahon, Robert (Perkins Coie) <RMahon@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Stillwell, Jacob (SEA) <jstillwell@perkinscoie.com>; Nichols, Clark R. (BEL) <Cnichols@perkinscoie.com>; Kymberly.Evanson@pacificalawgroup.com; Becky Witmer <Becky.Witmer@acttheatre.org>; Todd Reuter <todd.reuter@foster.com>; Lutz, Jerry (BEL) <jlutz@perkinscoie.com>; Filipini, Mark <mark.filipini@klgates.com>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]

Good morning, Mr. Bricklin.

The Hearing Examiner will review this request if it is submitted today in motion format. Email communications to the Hearing Examiner are not accepted procedure.

Sincerely,

Galen Edlund-Cho
Legal Assistant
City of Seattle Office of Hearing Examiner
700 Fifth Avenue, Suite 4000, Seattle, WA 98104
Direct: 206.615.1718 I Fax: 206.684.0536 I Galen.Edlund-Cho@seattle.gov

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From: Dave Bricklin <bricklin@bnd-law.com>
Sent: Thursday, December 03, 2020 9:15 AM
To: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>
Cc: jgruen@g3mh.com; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>; Mahon, Robert (Perkins Coie) <RMahon@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Stillwell, Jacob (SEA) <jstillwell@perkinscoie.com>; Nichols, Clark R. (BEL) <Cnichols@perkinscoie.com>; Kymberly.Evanson@pacificalawgroup.com; Becky Witmer <Becky.Witmer@acttheatre.org>; Todd Reuter <todd.reuter@foster.com>; Lutz, Jerry (BEL) <jlutz@perkinscoie.com>; Filipini, Mark <mark.filipini@klgates.com>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]

CAUTION: External Email

Galen,

Please forward this email to the hearing examiner:

Mr. Examiner,

Resolution 31979 establishes a tight timeline for your remand proceedings. The Council set a deadline of February 1, 2021 for your report. With that in mind, the Council also set a deadline of November 30, 2020 for submission of the new appraisal analysis from the city's appraiser. That schedule provides just 62 days for the affected parties to review the report, obtain expert reports (if necessary), and potentially conduct discovery; for the examiner and all parties to conduct the hearing; and for the examiner to generate the report to the Council. Given that short timeline (exacerbated by the intervening holidays), every day counts.

In the email chain below, the City attorney had ex parte communications with your office seeking to delay the date ***set by the City Council*** for submission of the city appraiser's new report. Without the benefit of any input from any of the affected parties, your office provided an open-ended extension. I request that your office revisit that decision on procedural and substantive grounds.

Procedurally, the City attorney should not have made that request to your office ex parte. The requested delay is highly consequential, prejudicing the ability of the affected parties to participate in these proceedings. For the City to make this request to your office with no notice to other parties is highly irregular, violates the examiner's rules that bars ex parte contact (changing a disclosure deadline is not the type of "procedural" matter exempt from the rule), and violates the Rules of Professional Responsibility. For these reasons alone, your office should rescind the permission your office granted to let the City's attorney ignore the deadline established by the City Council in its resolution.

Waiving or postponing the deadline for submitting the report also should be rescinded on substantive grounds. First, it is doubtful that the examiner has the authority to modify a deadline set by the City Council. Second, as noted above, the delay is causing significant prejudice to the other parties. Every day that goes by without disclosure of the report is another day that our ability to represent our clients' interests is compromised. Third, there is absolutely no need for the extension—other than to prejudice the other parties' ability to prepare. The City didn't say it needed more time to complete the report, though late yesterday Mr. Filipini advised me that some portions of the analysis are not yet complete—in violation of the deadline set by the City Council. Portions of the report may be complete. Mr. Filipini has not responded yet to my request for that information.

I hope you can act on this immediately and direct the city to submit the report today. Thank you.

David Bricklin

Bricklin & Newman, LLP
1424 Fourth Avenue, Suite 500
Seattle, WA 98101
1-206-264-8600
1-206-264-9300 (fax)
bricklin@bnd-law.com
http://www.bnd-law.com

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!

From: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>
Sent: Tuesday, November 24, 2020 12:14 PM
To: Filipini, Mark <mark.filipini@klgates.com>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]

Good morning, Mr. Filipini.

Yes, please hold off on any submissions until after the prehearing conference. The remand hearing date, pleading submission dates, and other procedural matters will be established at the prehearing conference.

Sincerely,

Galen Edlund-Cho
Legal Assistant
City of Seattle Office of Hearing Examiner
700 Fifth Avenue, Suite 4000, Seattle, WA 98104
Direct: 206.615.1718 I Fax: 206.684.0536 I Galen.Edlund-Cho@seattle.gov

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From: Filipini, Mark <mark.filipini@klgates.com>
Sent: Tuesday, November 24, 2020 10:48 AM
To: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]

CAUTION: External Email

Hi Mr. Edlund-Cho,

Assuming the prehearing conference is set for December 1 or 2, should the City hold off on submitting any materials to the Hearing Examiner until after same? We note that Section 1 of City Council Resolution 31979 directs the City's Appraiser to submit further analysis concerning valuation of the remanded properties by November 30.

Thank you,
Mark

Mark S. Filipini
Partner
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, Washington 98103
Phone: 206-370-8111
Fax: 206-370-6060
mark.filipini@klgates.com
www.klgates.com

From: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>
Sent: Friday, November 20, 2020 4:12 PM
To: Filipini, Mark <mark.filipini@klgates.com>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]

Good afternoon, Mr. Filipini.

Thank you for providing the City's availability below. All parties have responded, so I will forward all availabilities to the Examiner later this evening.

Sincerely,

Galen Edlund-Cho
Legal Assistant
City of Seattle Office of Hearing Examiner
700 Fifth Avenue, Suite 4000, Seattle, WA 98104
Direct: 206.615.1718 I Fax: 206.684.0536 I Galen.Edlund-Cho@seattle.gov

---

From: Filipini, Mark <mark.filipini@klgates.com>
Sent: Friday, November 20, 2020 4:10 PM
To: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel <Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>
Subject: RE: Waterfront LID Levy Assessment Remand Prehearing Conference [KLG-USW_Active01.FID682720]

CAUTION: External Email

Hello Mr. Edlund-Cho,

The City is available on December 1 from 12:30 to 3:30 p.m. and on December 2 from 9 a.m. to 11 a.m. and from noon to 4 p.m. We are not available on the morning of December 3.

Thanks,
Mark

Mark S. Filipini
Partner
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, Washington 98103
Phone: 206-370-8111
Fax: 206-370-6060
mark.filipini@klgates.com
www.klgates.com

From: Edlund-Cho, Galen <Galen.Edlund-Cho@seattle.gov>
Sent: Thursday, November 19, 2020 10:51 AM
To: Filipini, Mark <mark.filipini@klgates.com>; Thompson, Gabrielle E. <Gabrielle.Thompson@klgates.com>; Lee, Engel

<Engel.Lee@seattle.gov>; Khaleghi, Kristina <Kristina.Khaleghi@seattle.gov>
Subject: FW: Waterfront LID Levy Assessment Remand Prehearing Conference

Good morning,

The Hearing Examiner would like to schedule a prehearing conference regarding the remanded objections below.

Please reply with your availability with respect to all dates and times listed below.

Sincerely,

Galen Edlund-Cho
Legal Assistant
City of Seattle Office of Hearing Examiner
700 Fifth Avenue, Suite 4000, Seattle, WA 98104
Direct: 206.615.1718 I Fax: 206.684.0536 I Galen.Edlund-Cho@seattle.gov

---

From: Edlund-Cho, Galen
Sent: Wednesday, November 18, 2020 11:14 AM
To: Todd Reuter <todd.reuter@foster.com>; Mahon, Robert (Perkins Coie) <RMahon@perkinscoie.com>; Lin, Megan (BEL) <MLin@perkinscoie.com>; Lutz, Jerry (BEL) <jlutz@perkinscoie.com>; Stillwell, Jacob (SEA) <jstillwell@perkinscoie.com>; Nichols, Clark R. (BEL) <Cnichols@perkinscoie.com>; Kymberly.Evanson@pacificalawgroup.com; lovady@hornerlawgroup.com; becky.witmer@acttheatre.org
Subject: Waterfront LID Levy Assessment Remand Prehearing Conference

Good morning,

The Seattle City Council, pursuant to Resolution 31979 [http://seattle.legistar.com/LegislationDetail.aspx?ID=4688619&GUID=97BEE1E2-C698-4610-B4F1-E058CFD95D3D&Options=ID%7cText%7c&Search=] has remanded the following Waterfront LID cases for further review: CWF-0133, CWF-0134, CWF-0136, CWF-0168, CWF-0318, CWF-0328, CWF-0329, CWF-0353, CWF-0392, CWF-0413, CWF-0415, CWF-0417, CWF-0418, CWF-0423, CWF-0429, CWF-0436, and CWF-442.

The Hearing Examiner is requiring that the parties attend a prehearing conference to schedule these remanded matters. The Hearing Examiner is making an initial request to check availability for certain dates. If the parties are not able to identify a mutually agreeable date based on these dates, then the Hearing Examiner will set a date for the prehearing conference, which all parties will be required to attend regardless of scheduling conflicts. Available dates and times for the prehearing conference are (please indicate your availability for all times, and not just your preferred time):

Tuesday, December 1, 2020, anytime between 11 am and 4 pm;
Wednesday, December 2, 2020, anytime between 9 am and 4 pm; or,
Thursday, December 3, 2020, anytime between 9 am and 11 am.

Sincerely,

Galen Edlund-Cho
Legal Assistant
City of Seattle Office of Hearing Examiner
700 Fifth Avenue, Suite 4000, Seattle, WA 98104
Direct: 206.615.1718 I Fax: 206.684.0536 I Galen.Edlund-Cho@seattle.gov

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