BEFORE THE HEARING EXAMINER OF THE CITY OF SEATTLE

SEATTLE WATERFRONT LID ASSESSMENT HEARING	Case Nos.: 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 **CITY OF SEATTLE'S CLOSING ARGUMENT REGARDING REMANDED PROPERTIES**

I. INTRODUCTION

In accordance with the City Council's direction in Resolution 31979, the City of Seattle's ("City's") appraiser reviewed the 17 remanded properties consistent with the Hearing Examiner's recommendations. On December 4, 2020, the City's appraiser provided a revised analysis in which it reduced the assessments for 15 of the 17 remanded properties. While Objectors may be dissatisfied with the reduced assessments, claiming that they are not low enough, the revised assessments are the result of valid appraisal methods and reasonable in light of the evidence. The City respectfully requests that the Hearing Examiner recommend the adoption of the City's revised assessments.

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II. ARGUMENT

In Resolution 31979, City Council remanded 17 properties to ABS Valuation for further analysis consistent with the Hearing Examiner's September 8, 2020 Findings and Recommendations ("Recommendations"). In those Recommendations, the Hearing Examiner recommended that the properties be remanded "for reconsideration of the property specific information provided in the hearing for valuation purposes." Recommendations at 41. Eleven of the remanded properties were hotels, while the other six properties were either commercial or residential properties. Only the hotel properties and one of the non-hotel properties (CWF-392) submitted materials in the remand proceedings. As explained below, the City's appraiser's revised analysis should be adopted.

A. The City's Appraiser Complied with City Council's Direction and Used Valid Methods in its Remand Analysis of the Hotel Properties.

The evidence shows that ABS Valuation's remand analysis[1] fully complied with the Hearing Examiner's directive to consider the property-specific hotel information presented during the hearing. As Mr. Macaulay explained, "In its revised analysis, ABS Valuation considered the information submitted by Kidder Mathews during these proceedings, including Kidder Mathews' average daily room rate ("ADR") forecasts," and "using that information, as well as market data, ABS Valuation reduced the ADR forecast for each of the 11 remanded hotel properties." January 12, 2021 Reply Declaration of Robert J. Macaulay, MAI, Regarding Remanded Properties ("1/12/2021 Macaulay Decl."), ¶ 5.

Contrary to arguments by Objectors, ABS Valuation did not use the comparable sales approach to arrive at the "before" values of the hotel properties. *See* Objectors' Brief on Remand, CWF-133 *et al.* at 2; Objectors' Statement on Remand, CWF-233, *et al.* at 3-4. Instead, ABS Valuation used the same income approach as Mr. Gordon, but also reviewed

[1] ABS Valuation's Remand Analysis can be found in the December 4, 2020 Declaration of Robert J. Macaulay, MAI, Regarding Remanded Properties ("ABS Remand Analysis").

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market data of recent hotel sales to check the reasonableness of its income analysis. *Id.* at ¶ 4. While Mr. Gordon testified to also using sales data to check his value conclusions, in doing so, he only considered whether his conclusions fit within an extremely broad range of values (from $259,414/room to $695,833/room), as opposed to testing his value conclusions against a subset of the most comparable recent sales. *Id.* at ¶ 13.

ABS Valuation, on the other hand, tested its income approach conclusions against the recent sales that were most comparable with each hotel it was valuing. *Id.* at ¶ 14. Mr. Lukens, an expert in hotel appraisals, agrees that merely checking a value conclusion against a broad range, as Mr. Gordon did, would not serve any useful purpose in checking the reasonableness of that conclusion because the range of values is simply too wide. January 12, 2021 Declaration of Mark Lukens Regarding Remanded Properties, ¶¶ 10-11. Instead, as Mr. Lukens explained, an appraiser should identify the most relevant recent comparable sales to check the reasonableness of the income approach value for the hotel being appraised, which is what ABS Valuation did in this case. *Id.* at ¶ 12. When considering relevant recent comparable sales, each of ABS Valuation's revised "before" values for the remanded hotels are consistent with the market. 1/12/2021 Macaulay Decl., ¶ 14.

ABS Valuation was not required to adopt—without adjustment—Mr. Gordon's forecasted average daily room rates ("ADR") for the hotels merely because Mr. Gordon had had access to the hotel's historical performance data, as Objectors contend. *See* Objectors' Brief on Remand, CWF-133 *et al.* at 2; Objectors' Statement on Remand, CWF-233, *et al.* at 3. The ADR forecasts adopted by Mr. Gordon, while based on each hotel's actual performance, were not equivalent to each hotel's 2019 actual achieved ADR. In fact, in each of the 11 hotels, Mr. Gordon's ADR forecast is greater than what the hotels had actually achieved in 2019. 1/12/2021 Macaulay Decl., ¶ 9. Instead, as Mr. Gordon admitted several times in this proceeding, his ADR forecasts were the product of his judgment. Tr. 4/14/2020,

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71:1-12; 1/12/2021 Macaulay Decl., ¶ 9. Mr. Gordon further admitted that there is simply no reasonable expectation that two appraisers would arrive at the same ADR forecast or overall value conclusion for the same property. Tr. 4/14/2020, 71:1-12; 1/12/2021 Macaulay Decl., ¶ 9. ABS Valuation did not rotely adopt Mr. Gordon's ADR forecast because it concluded that such a forecast resulted in value conclusions that were significantly inconsistent with the market. 1/12/2021 Macaulay Decl., ¶ 6.

ABS Valuation properly considered the property-specific hotel information provided during the proceedings and, in conjunction with market data regarding recent hotel sales and its professional judgment, made adjustments to its ADR forecasts. There is nothing in ABS Valuation's methodology that would warrant a wholesale rejection that Objectors seek.

B. Objectors Failed to Submit Expert Evidence to Support Requested Revisions to Special Benefit Assessments.

The Hearing Examiner should reject the remanded hotel properties' request to adopt special benefit assessment "calculations," contained in Mr. Gordon's January 8, 2021 declarations. In Exhibits 1 and J of Mr. Gordon's recent declarations, Mr. Gordon purports to calculate revised special benefit assessments for each of the 11 remanded hotel properties. Mr. Gordon achieved these "calculations" by substituting ABS Valuation's ADR forecast with Kidder Mathews' ADR forecast (this is the "ABS Adjusted" column in the exhibits), or alternatively, by merely plugging Kidder Mathew's "before" appraised value into ABS Valuation's special benefit analysis (this is the "KM Appraisal" column). Mr. Gordon's revised special benefit assessments should be rejected for several reasons. First, they were prepared by Mr. Gordon, who has admitted to having no expertise in special benefit studies or calculating special benefits. Tr. 4/14/2020, 74:1-3 ("Q: [W]hat experience do you have in calculating special benefits? [Gordon]: Zero."). Next, Mr. Gordon's proposed substitution of Kidder Mathews' ADR forecast or "before" values misunderstands the special benefit

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assessment process by incorrectly assuming that the "after" value (or special benefit) is simply a percentage amount. 1/12/2021 Macaulay Decl., ¶ 18. That, however, is not the case. In any special benefit assessment, an appraiser must calculate the "before" and "after" market value differences. *Id.* at ¶¶ 17-19. In this proceeding, only ABS Valuation has performed a special benefit study or calculated the "after" value for the hotels. *Id.* The Hearing Examiner should reject these proposed assessment amounts because they were not prepared by qualified experts.

C. The Edgewater Hotel Produced No Evidence That it Should Have Been Assessed Based on the Leasehold Interest.

In its appraisal of the Edgewater Hotel (CWF-136), ABS Valuation appropriately valued the fee simple interest, and not the leasehold interest, of the property in accordance with Washington Local Improvement District law. 1/12/2021 Macaulay Decl., ¶ 27; *see*, *e.g.*, *N. Pac. Ry. Co. v. City of Seattle*, 46 Wn. 674, 678 (1907) ("Although the appellant may not hold the fee-simple title, there is no reasonable or immediate probability that it will abandon the land. Its use will doubtless be perpetual. Appellant is therefor for all practical purposes the substantial owner."). Mr. Gordon, on the other hand, only appraised the leasehold interest of the Edgewater Hotel property, which he admitted resulted in a significantly lower value conclusion for the property. 1/12/2021 Macaulay Decl., ¶ 27. The Hearing Examiner already considered—and rejected—the Edgewater Hotel's argument that its assessment should be based on the leasehold interest of the property. Recommendations at 41. On remand, the Edgewater Hotel has again failed to rebut the validity of ABS Valuation's approach in valuing the Edgewater Hotel based on the fee simple interest. The Hearing Examiner should not give weight to Mr. Gordon's appraisal of the Edgewater Hotel because he failed to value the appropriate fee simple interest for this proceeding.

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D. COVID-19 Is Not a Valid Basis for a Decreased Assessment.

Several of the hotel objectors continue to submit evidence regarding the impacts of COVID-19, and a subset of hotel properties are now arguing for a 30 percent reduction in the "before" values of their properties due to COVID-19. *See* January 8, 2021 Declarations of Zahoor Ahmed ¶¶ 13-14, January 8, 2021 Declaration of Thomas Waithe, ¶ 15. This issue was fully briefed last summer by multiple parties, including the objectors in question and the City, and the Hearing Examiner concluded that COVID-19 has no bearing on the assessments or these proceedings. Recommendations at 120, ¶ 14. As a result, the Hearing Examiner should reject the evidence regarding COVID-19 impacts and the related request for 30 percent reductions.

E. Objector in CWF-392 Did Not Present Sufficient Evidence of to Warrant a Zero Assessment for Portions of the Stewart House Condominiums.

On remand, Objector in CWF-392 argued that two units of the Stewart House Condominium property should receive a zero assessment based on a HUD contract that, it argued, restricted the use of the units to low-income housing until 2032. Objection to Final Assessment Roll on Remand CWF-0392 (Jan. 8, 2021), at 2. The HUD contract upon which Objector relies, however, includes a provision that allows the owner to terminate the contract upon written notice. *See id.* at APP. 30, § 8(a). Because the HUD contract is not an absolute restriction on use and because it is possible for the owner to use it as something other than low-income housing, a zero assessment for the two units of Stewart House Condominiums is not warranted. 1/12/2021 Macaulay Decl., ¶ 34. For the same reason, the Hearing Examiner should reject the Objector's argument for a reduction in the undivided interest in land allocated to the two low-income housing units of the Stewart House Condominiums.

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III. CONCLUSION

The City's appraiser's remand analysis appropriately and adequately considered information obtained during the hearings to adjust, as necessary, the assessments for the remanded properties. Objectors on remand have failed to introduce evidence supporting their proposed, revised special benefit assessments. The City respectfully requests the Hearing Examiner recommend that City Council adopt ABS Valuation's revised assessments.

DATED this 15th day of January, 2021.

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