PACIFICA LAW GROUP

T 206.245.1700
1191 2nd Avenue, Suite 2000
Seattle, WA 98101-3404
pacificalawgroup.com

Kymberly K. Evanson
kymberly.evanson@pacificalawgroup.com

January 15, 2021

VIA EMAIL

Office of the City Clerk
Seattle City Hall
600 Fourth Avenue, Floor 3
Seattle, WA 98104

LIDHearingExaminer@seattle.gov

Re: Local Improvement No. 6751 Objection to Final Assessment Roll on Remand CWF-0392; Closing Statement

Property Owner: Pike Place Market Preservation and Development Authority
85 Pike Street, #500
Seattle, WA 98101

Stewart House
Parcel Numbers 800855-0000
(B-198-001, B-198-002, B-198-003, B-198-004)

North Arcade
Parcel Number 1977200385
(B-188)

Dear Hearing Examiner:

On behalf of the Pike Place Market Preservation and Development Authority ("PDA"), we respectfully submit the following closing statement in support of the PDA's objections to the proposed final assessment roll for Local Improvement District No. 6751 (the "Waterfront LID").

I. Procedural History

The PDA's objections to the proposed final assessment roll for the Waterfront LID concern two Market properties: Stewart House Condominium and the property referred to as the North Arcade of Public Market ("North Arcade"). On February 3, 2020, the PDA filed objections to the Waterfront LID concerning these two properties and provided brief argument at the objection hearing. On August 13, 2020, the City submitted amended assessments to the final assessment roll for certain properties, including the North Arcade. The amended assessment proposed a reduction to the special benefit estimate for the North Arcade parcel. The City did not recommend changes to the Stewart House assessment at that time.

On September 8, 2020, the Hearing Examiner issued a report recommending that the PDA's objections be remanded for further consideration. Specifically, the Hearing Examiner observed that the City's amended assessment for the North Arcade had been submitted after the close of the record and that the PDA had not had the opportunity to respond to it. With respect to Stewart House, the Hearing Examiner found that the City had failed to respond to the PDA's objections pertaining to the Stewart House assessment, and as such, the Hearing Examiner was without sufficient information to make a recommendation as to their merits. As such, the PDA's objections were remanded for further consideration by the City.

On December 4, 2020, the City provided its revised valuation. The City made no further changes to the North Arcade assessment beyond the City's August amendments and again provided no response to the PDA's objections relating to Stewart House.

Consistent with the schedule set by the Hearing Examiner, on January 8, 2021, the PDA filed objections on remand to City's revised valuation. The City filed a response on January 12, 2021 recommending the Hearing Examiner deny the PDA's objections. This closing statement thus incorporates by reference the facts and evidence set forth in and appended to its February 3, 2020 objection and January 8, 2021 objection on remand. The PDA further incorporates by reference materials relied upon by the City.

II. The Assessments

In its objections, the PDA has endeavored to provide the Hearing Examiner with an objective summation of the constraints and restrictions placed upon its property, which in turn establish long term use for public purposes. Among these purposes are the operation of commercial property for goals other than highest cash flow and an effective prohibition on the sale or transfer of said property to another ownership entity with a different purpose.

These are important constraints. They are not traditionally expressed in recorded restrictions and covenants on the use of property. They are not easily researched. It is understandable that they may have not surfaced in an appraisal involving thousands of separate properties, or that they are not easily understood. However, these constraints are not theoretical: they are evidenced through the documents and practice the PDA has presented in this objection and warrant serious consideration by the Hearing Examiner.

To date, the City's cursory responses evidence an ongoing failure to appreciate the uniqueness of the two subject PDA properties and the resulting impact on any special benefit from the LID. In only 3 sentences, the City rejected without analysis the PDA's objections regarding the Market's provision of low-income housing. The PDA's detailed analysis regarding the overstatement of the land value for Stewart House and the North Arcade was similarly dismissed without substantive explanation. The Hearing Examiner should reject the City's revised valuation and adjust the assessments as requested in the PDA's January 8, 2021 objection on remand.

A. The Restrictions and Practice at Stewart House Support a Zero Assessment for the Provision of Low-Income Housing.

As detailed in both of the PDA's objections and supporting evidence, the Stewart House condominium building provides low-income house in two of its three units. The City does not dispute that the PDA is a party to a 20-year contract with the United States Department of Housing and Urban Development ("HUD") for the provision of these services. Nor does the City dispute any of the factual information provided by the PDA relating to the population served by Stewart House, the restrictions on the development of Stewart House arising both from the contract and the Market's charter, the limitations imposed by the Market Historical District, or the corresponding lack of special benefit as a result. Rather, the City's only response to the PDA's objection is that the PDA could terminate the HUD contract, unlike restrictive covenants running with the land. This City's claim does not support its revised valuation.

First, the City is wrong that the PDA could discontinue the provision of low-income housing at Stewart House. The PDA built and renovated Stewart House for that express purpose with City funding 40 years ago. The PDA secured that operation with a 20-year contract with HUD to provide Section 8 housing in 1982. The PDA has repeatedly renewed that contract, the latest iteration of which runs through 2032. While not disputing any of these facts, the City nonetheless states that "Section 8 of [the HUD] contract indicates that the contract can be terminated prior to 2032 and, as a result, is not the type of restrictive covenant that warrants a zero assessment." But section 8 of the HUD contract does not bestow early termination rights upon the PDA. Rather, that section merely states that before the contract is ultimately terminated (presumably in 2032, unless it is renewed again), the PDA is required to provide notice to residents. *See* Appendix to January 8, 2021 Objection ("App.") at 30.

Second, even if it theoretically could, there is no basis on which the City should assume that the PDA would terminate its contract with HUD prior to 2032 and cease to provide low-income housing at Stewart House. To the contrary, the PDA's Charter expressly provides that the provision of low-income housing is central to the PDA's purpose.[1] Stewart House was constructed for this purpose, which is consistent with the PDA's long-history of providing housing to low-income residents via numerous different PDA properties. *See* App. at 1-3; February 3, 2020 Objection at 2-3 (detailing regulatory restrictions on PDA use and alienation of property). Moreover, the limitations on the PDA's properties in the Market Historical District prohibit the sale or further development of Stewart House. The City does not acknowledge this amalgamation of restrictions, which has the effect of assuring the continued provision of low-income housing at Stewart House, nor explain why they should not be credited in a manner consistent with other PDA properties providing commensurate residential services to low-income residents.

[1] *See* Pike Place Market Preservation and Development Authority Charter, page 2. http://pikeplacemarket.org/sites/default/files/Charter%20Pike%20Place%20Market%20PDA.pdf

Third, the City has inexplicably singled out Stewart House for disparate treatment from other PDA properties that provide low-income housing. The PDA raised these disparities in both its February 3, 2020 and January 8, 2021 objections, and yet the City has still failed to respond to these facts. Specifically, the City's valuation properly recognized that no assessment should apply to similar PDA properties that provide low-income housing, including the Lasalle Building, Pine Building, PC-1 South and MarketFront. Each of these buildings has condominiums with specific units dedicated to low income housing, each governed by a variety of agreements, including contracts with HUD under section 8, extended use agreements with the Washington State Housing Finance Commission or contracts with the City of Seattle. Yet Stewart House alone was levied an assessment that ignores its historical, current, and future use as low-income housing, under a section 8 contract with HUD.

Finally, the Hearing Examiner should consider the fact that the PDA has an exemption from property taxes for <u>all</u> properties in the Market Historical District, regardless of use, as all uses are constrained by the PDA Charter. Despite this, the PDA appealed the LID assessment levied against only Stewart House and North Arcade, out of its 32 impacted parcels. Where the undisputed record demonstrates that the PDA has and will continue to provide low-income housing at Stewart House long into the future (and further is prohibited from developing Stewart House to a use inconsistent with the PDA Charter), a zero assessment for the impacted units and corresponding land value is equitable and should apply.

B. The Land Value Assessments for both the North Arcade and Stewart House Should Be Reduced.

Like the City's response to the Stewart House objection, the City's defense of its land value assessment lacked adequate explanation. In response to the detailed comparisons of nearby PDA properties and discussion of the unique features of Stewart House and the North Arcade, the City responded only that its valuation considered the factors raised by the PDA. Without elaboration, the City concluded its $700 per square foot land value assessment was appropriate.

The Hearing Examiner should reject this assertion. In its objections, the PDA demonstrated why $700 per square foot for both properties far exceeded any reasonable assessment of existing land value. The City did not respond with any specifics, other than to assert its valuation was reasonable. But the City did not explain why $700 per square foot should apply to the North Arcade and Stewart House when that amount (or less) was used to value the LaSalle Building and Heritage House, both of which are fully developed buildings near their maximum development height of 85 feet. As detailed in the PDA's objection, the physical, regulatory and geographic restrictions on both Stewart House and the North Arcade are not present in the LaSalle and Heritage House properties. The City claimed to have considered these factors, yet failed to provide any explanation for the specific disparities raised in the PDA's objections. Moreover, the City did not acknowledge the erroneous assumption on the Stewart House analysis sheet that "assumes the project can be sold without use restrictions." As noted above, under the

PDA's Charter, none of the PDA property can be sold at all. The City's revised valuation does not reflect this reality, and the Hearing Examiner should reject it.

III. Conclusion

In sum, despite its status as a non-profit organization whose holdings are entirely exempt from property tax, the PDA has objected to only a small percentage of its LID assessments. The PDA has provided detailed analysis of the errors and discrepancies in the City's analysis with respect to Stewart House and the North Arcade, based on records provided to or by the City's appraiser. In its revised valuation, the City has again failed to meaningfully consider and respond to the PDA's well-founded objections.

Accordingly, for the reasons outlined in the PDA's objections and above, the PDA respectfully requests that the Stewart House Condominium total assessment be reduced to $57,730 and the North Arcade assessment be reduced to $35,868.

Sincerely,

PACIFICA LAW GROUP LLP

Kymberly K. Evanson