

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In re Proposed Final Assessment Roll for  
Local Improvement District No. 6751  
("Waterfront LID")

Parcel Nos.:

1975700365; 0939000240; 0660000708;  
2285130010; 6792120010; 6195000030;  
0942000430; 6792120020; 0696000015;  
1974600025; 1974600035; 1975700365;  
0939000240;

Case Nos. CWF-0318, 0413, 0415, 0417, 0418,  
0423, 0429, 0436

**REMAND OBJECTORS' STATEMENT  
ON REMAND**

The Hotel LID Objectors represented by Perkins Coie LLP in each of these remanded appeals ("Remand Objectors") request that Mr. Macaulay's proposed revised "before value" conclusions be rejected.

The Hearing Examiner recommended the hotels appraised by John Gordon and Kidder Mathews be re-valued using data relied on by Mr. Gordon due to "the specificity of the valuation data" he used in his appraisals. "[T]he valuations of these properties should be

OBJECTORS' STATEMENT ON REMAND –

1

150918499.3

**Perkins Coie LLP**  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101-3099  
Phone: 206.359.8000  
Fax: 206.359.9000

1 remanded for recalculation by the City appraiser **based on the information provided by**  
2 **these Objectors.**” See Hearing Examiner Recommendation at p. 117 (emphasis added). The  
3  
4 City Council adopted the Examiner’s recommendation and remanded these matters to the  
5  
6 City’s appraiser. However, Mr. Macaulay /ABS failed to follow that direction. Instead, Mr.  
7  
8 Macaulay has again proposed use of values he pulled from thin air. Most centrally, Mr.  
9  
10 Macaulay slightly reduced the estimated average room rates he used in his income analysis,  
11  
12 but rejected Mr. Gordon’s estimates, because he thought using them would make his hotel  
13  
14 value conclusions “too low,” even though Mr. Gordon based his projected room rate estimates  
15  
16 on the actual results of the hotels detailed in their STR reports. Mr. Macaulay’s revised hotel  
17  
18 valuations should be disregarded.<sup>1</sup>  
19

20  
21 In his testimony last year, Mr. Macaulay offered a number of excuses as to why the  
22  
23 data he and his ABS team used in ABS’ (initially confidential and proprietary) capitalized  
24  
25 income analysis work sheets were so far from the hotels’ actual operating results. In  
26  
27 particular, he protested that he did not have it, nor did he formally request it, because hoteliers  
28  
29 consider their performance data confidential. He also testified repeatedly that if he had the  
30  
31 information, he would consider it. Subsequently, the Examiner recommended that the Council  
32  
33 direct Mr. Macaulay to “recalculate” the valuations based on that actual data. Instead, Mr.  
34  
35 Macaulay ignored that instruction, and again relied on slightly reduced average daily room  
36  
37 rates that these hotels have never achieved and could not have reasonably achieved, even pre-  
38  
39 Covid-19.  
40

---

41 <sup>1</sup> Mr. Macaulay also recommended in his remand analysis that the hotels’ assessments be  
42 based on their real property valuations, excluding the estimated value of personal property. In his  
43 calculations to exclude personal property from the City’s assessment, he recommended adjustments  
44 “based on the information provided by these Objectors” - namely, Mr. Gordon’s estimated personal  
45 property valuations. With the exception of one noted correction related to the Hyatt Regency,  
46 Remand Objectors do not contest the personal property components of Mr. Macaulay’s / ABS’s  
47 remand recommendations.

1 When Mr. Macaulay was originally deposed in February, 2020, he was asked directly  
2 whether, if he received the actual average room rates or occupancy rates, “would you revise  
3 your report?” *See* Deposition of Robert J. Macaulay, 157:3-7 (February 27, 2020). Mr.  
4 Macaulay responded: “[i]f I was asked for review the information, . . . and if it was factual  
5 and valid, yes.” *Id.* at 157:8-11. During cross-examination during the city’s June 2020 LID  
6 reply case, Mr. Macaulay was asked whether actual data in the STR reports is important  
7 “because it is based on historical performance and helpful to projecting anticipated  
8 performance for hotel”? He responded: “[y]es. I would agree. If I had the actual historical  
9 performance, it would have been very helpful in doing this assignment.” *See* LID Assessment  
10 Hearing Transcript 107:24-108:5 (June 23, 2020). And yet, when instructed by the City  
11 Council to recalculate the hotels’ before values based on that same historical data, Mr.  
12 Macaulay chose instead to disregard it.  
13  
14

15 Mr. Macaulay’s declaration recommends valuations based on purported “estimated  
16 room rate” reductions of \$2-\$20. The hotels actual historic performance reflected in the STR  
17 reports shows that the actual average daily room rates achieved by the hotels were still more  
18 than \$100 lower than Mr. Macaulay’s revised “estimates.” When asked why he did not use  
19 Mr. Gordon’s estimates (based on, but in some cases slightly higher than, those historical  
20 results), Mr. Macaulay stated, “if you were to plug his room rate into our income scenario,  
21 you come out with a value that just isn’t supported by market sales.” *See* Deposition of Robert  
22 J. Macaulay, 7:10-13 (December 22, 2020) (Attached as Exhibit A). Further, contrary to what  
23 most would have assumed from his initial LID assessment study and his formerly confidential  
24 and proprietary supporting spreadsheets (revised and attached to his declaration as Exhibits B  
25 through M), Mr. Macaulay now asserts that ABS’s hotel before and after valuations were  
26 based primarily on a “comparable sales approach” (without any real discussion of how ABS  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

1 and its supporting consultants analyzed and adjusted the “comparables” to conclude each  
2 hotel’s value, and relying in large measure on Mr. Luken’s experience and professional  
3 judgment rather than ABS’ own expertise). Remarkably, Mr. Macaulay now characterizes his  
4 detailed net income spreadsheets as merely a “gut check” on his comparable sales conclusions,  
5 even though he withheld them as confidential and proprietary until the hearing on Objectors’  
6 motion to exclude his initial report under Frye and ER 702. Further, Mr. Macaulay has not  
7 shown how, if at all, he tried to reconcile his revised “income analysis” with the hotels’ actual  
8 results - he simply disregarded those results. Yet, when asked to characterize his revised  
9 analysis, Mr. Macaulay maintained that it still “primarily represents additional information  
10 we were provided through the attorneys that Mr. Gordan had included in his analysis showing,  
11 you know, primarily a reduction in income from what we had estimated in our original  
12 analysis.” *Id.* at 25:2-10.  
13  
14

15 Mr. Macaulay’s admitted that if he used STR report-based room rate data in his  
16 capitalized net income analysis of these hotels’ value, the resulting hotel values would be “too  
17 low” in his judgment. That begs the question, “So what?” LID assessments are supposed to  
18 be based on actual, measurable, non-speculative market values and special benefits.  
19 Mr. Macaulay is proposing assessments based on an analysis he presents as based on “net  
20 operating income” that relies on “results” he simply made up; results that are not attainable in  
21 fact. He is not free to ignore the hotels’ actual net operating income and results simply because  
22 using them would lead to lower valuations. It is improper for Mr. Macaulay’s analysis to  
23 substitute unfettered “professional judgment” for hard data in this proceeding. What Mr.  
24 Macaulay should have done in light of the Hearing Examiner’s and City Council’s remand  
25 orders, and what he had previously testified he would do if given access to the data, was  
26 incorporate the actual operating results provided by the Remand Objectors on key issues such  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

1 as average room rate, occupancy, and revenue per room, into his income analysis, applying  
2 with whatever reasonable adjustments and professional judgment suggested to account for the  
3 forward looking nature of the assignment, as Mr. Gordon did. Instead, Mr. Macaulay  
4 sidestepped the whole issue, claiming that his primary market value conclusions are the result  
5 of a comparable sales analysis, and that somehow, his “net income analysis”, using made up  
6 data, supports his comparable sales conclusions in a way that an analysis using actual data  
7 would not. Bluntly put, his Exhibit B through M spreadsheets do not reflect the hotels’ actual  
8 net operating results, but in fact, assume and present *as if fact* results the hotels have never  
9 achieved and could not reasonably achieve. By contrast, Mr. Gordon, who used the STR  
10 reports, his detailed knowledge of the local hotel market and professional judgment, and other  
11 traditional appraisal data, presented valuations that are reasonable and were reasonably  
12 achievable, at least pre-Covid. The Examiner should recommend the City Council reject Mr.  
13 Macaulay’s remand analysis, and rely upon Mr. Gordon’s appraisals and the supplemental  
14 information provided by Remand Objectors’ representatives, Mssers Ahmed, Meyer and  
15 Waithe.

16  
17 For the sake of clarity, for purposes of this remand hearing, neither Century Retail  
18 (case # CWF-0423) nor United Way (case # CWF-0417), both of which are represented by  
19 Perkins Coie, contest Mr. Macaulay’s proposed revised assessments which carry forward Mr.  
20 Macaulay’s prior recommendations. However, they each maintain their previously filed  
21 appeals to the Council.

22  
23 This brief is supported by declarations of John Gordon, Zahoor Ahmed as to each of  
24 the Hyatt Olive 8 (CWF-0429), Grand Hyatt (CWF-0436), Renaissance (CWF-0418), and  
25 Hyatt Regency (CWF-0413), Randy Meyer as to the Sound Hotel (CWF-0415), and Tom  
26 Waithe as to the Alexis Hotel (CWF-0318), all filed concurrently.

1 DATED: January 8, 2021  
2  
3  
4

5 **Perkins Coie LLP**

6   
7  
8  
9

10  
11  
12 R. Gerard Lutz, WSBA No. 17692  
13 [JLutz@perkinscoie.com](mailto:JLutz@perkinscoie.com)  
14 Perkins Coie LLP  
15 10885 N.E. Fourth Street, Suite 700  
16 Bellevue, Washington 98004  
17 Telephone: 425.635.1400  
18 Facsimile: 425.635.2400

19  
20 Robert L. Mahon, WSBA No. 26523  
21 [RMahon@perkinscoie.com](mailto:RMahon@perkinscoie.com)  
22 1201 Third Avenue, Suite 4900  
23 Seattle, Washington 98101  
24 Telephone: 206.359.8000  
25 Facsimile: 206.359.9000

26  
27 *Attorneys for Objectors*  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47