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RE: **Waterfront Seattle LID Special Benefits Report – File Ref: 17-0291 – May 19, 2018**
Authored by Valbridge.

Dear Mr. McCullough and Ms. Stanford:

At your request, I have conducted this high-level review of the Valbridge mass appraisal study prepared for the purposes of documenting Special Benefit resulting from the city Waterfront Seattle project. The letter is intended as a consultation, and not as an appraisal review. At some point it may be appropriate to address individual valuations on a parcel by parcel basis, but that is not the concern of this letter. This consultation is largely conceptual in nature, and looks purely at the methodology employed and the general conclusions made in the presentation of the study. Please note, as a disclosure, I am part owner of a condominium located within the boundaries of the LID. I do not consider this to be a conflict in providing an objective review of the study methodology.

Valbridge Appraisal

Valbridge presents several conclusions, which briefly may be re-stated as:

1. LID Boundaries. Valbridge identifies a total of 6,130 properties with potential special benefits within an LID boundary that generally comprises the entire downtown area lying between Puget Sound, I-5, Denny Way, and S. Massachusetts Street.
2. Property Valuation. The value of property within this area is concluded to be approximately $48.8-billion.
3. Special Benefit Lift. The appraisal concludes with incremental increases in individual property values (which are presented numerically in the report) summarized as follows:

	Percentage of Property Value Increase	
Property Class	**High**	**Low**
Land value	<4.00%	<0.50%
Office/Retail	<3.50%	<0.50%
Hotel	<3.50%	<1.00%
Apartment/Subsidized housing	3.00%	0.00%
Residential condominium	3.00%	<0.50%
Waterfront	<4.00%	<0.50%
Special purpose	<0.50%	<0.50%

4. Special Benefit Amount v. Cost. The total of the individual assignments approximates a $415-million special benefit over these properties. This is compared and contrasted to the LID cost of $320-million. Legally the cost of the LID cannot exceed the benefit provided.
5. After Valuation. The incremental increases in value calculated are added to the Before value to create an After value, which in aggregate comes to $49.2-billion.

Conceptual and Methodological Issues

1. The basic construct of the LID and its application to Waterfront Seattle

LIDs are typically reserved for the funding of utility improvements and infrastructure within a specific neighborhood or market, and represent a means by which a group of property owners can receive and pay for improvements that might otherwise be avoided by a municipality; perhaps the project in question is/has been deemed too specific, or not a priority, to cover with general funding. The mechanism essentially allows property owners to pay for the LID with the obvious value lift associated with, say, the provision of sewer or a road. Under RCW 34.44.010, "*The cost and expense* [of improvements made through an LID] *shall be assessed upon all the property* [within the boundaries of the LID] *in accordance with the special benefits conferred thereon.*" (bracketed language added). The value lift associated with provision of the infrastructure (say water, power or sewer) is typically easily measured, and *special benefits*[1] are not hard to prove and calculate.

The current proposal, to fund a regional park through this mechanism, represents a special challenge for an appraiser, as the special benefit associated with an amenity such as a publicly-owned park is not obviously beneficial in the same fashion as a utility extension, representing more of an aesthetic, and widely dependent upon factors unrelated to the mere presence of the project (such as operations, public use, etc.). The project becomes even more challenging, when the park is to be located in a regional economic center, and funding requirements require benefit assessment across several downtown blocks that lie uphill from the amenity.

2. Special Benefit

Background

A successful LID is based on the correct identification of the *Special Benefit* created. The term Special Benefit is both a legal term and a term of art in the appraisal industry. The most succinct definition of Special Benefit is provided as a WPI instruction:

> "*Special benefits are those that add value to the remaining property as distinguished from those arising incidentally and enjoyed by the public generally.* WPI 150.07.01

The distinction between Special and General benefits is then a key consideration for an appraiser in the application of benefit deemed special. Eaton stresses the importance of the proper identification of special benefit, and the necessity for also identifying general benefit for the simple purposes of appropriate benefit allocation; if a project creates both special and general benefits, only the special increment that accrues to certain properties can be part of the assessment:

> *It should be noted that project enhancement...may be composed of general benefits, special benefits, or a combination of the two. Thus it may be necessary...to allocate the beneficial effects of project enhancement between special and general benefits and to consider only the special benefits in estimating the value of the property in the after situation."*
>
> Real Estate Valuation in Litigation, Page 326, by Jim Eaton MAI.

[1] See subsequent discussion on the definition of a special as opposed to general benefit.

The standard dictionary definition of special, an adjective, is *better, greater, or otherwise different from what is usual.* Synonyms include *exceptional, unusual, singular, uncommon, notable, noteworthy, remarkable, outstanding, unique, more.* In practical application though, the precise meaning of Special Benefit has been debated in the courts, particularly in eminent domain cases, with the same principles applying to LIDs. One of the clearest and oft-cited distinctions of special and general benefit is found in the following court decision:

> *"The most satisfactory distinction between general and special benefit is that general benefits are those which arise from the fulfillment of the public object..., and special benefits are those which arise from the peculiar relation of the land in question to the public improvement"*
>
> United States v. 2,477.79 Acres of Land, as quoted in Nicols

There are various common sense applications of special benefits. They cannot be "*remote, speculative or imaginary*" (WPI). In addition the appraiser should consider when the benefits will actually be received.

> *The fair market value of the remainder, as of the date of valuation, shall reflect the time when the damage or benefit caused by the proposed improvement or project will be actually realized.* Uniform Eminent Domain Code 1974, §1006, p.10.11. as quoted in Real Estate Valuation in Litigation by Jim Eaton, MAI

3. <u>The Valbridge Study</u>

The Valbridge study presented on behalf the city fails to meet key tests of credibility in the application of Special Benefit. At issue are the following general categories of analysis:

a. Special Benefit Definition and Distinction from General Benefits

The appraisal:

- Makes no attempt to assess General Benefit, and does not offset the apparent measure of special benefits with general benefits. The appraisal ignores the basic equation:
  - Total Benefit minus General Benefit = Special Benefit.

  If the evidence of benefit presented by the appraiser is to be believed, it is apparent that General Benefits have been included in the Special Benefit Study.

Beyond the lack of recognition of General Benefits, it is noted that the very nature of the public improvement – a regional park - and the wide LID boundaries described in the report, suggests that entire project could be described as offering almost entirely general benefit. Almost by definition, if $48.1B of real estate is impacted by the project, the benefits provided would seem very general and widespread in nature.

b. Method of Assessment

The method of assessment used – an application of a percentage to a concluded before value – does not represent a true measure of benefit. This is considered a short-cut, akin to a "strip-take" analysis, typically reserved for projects with minor damages - small easements or takes of strips of land. Its application to a special benefit study represents an improper method of analysis <u>as the value lift should be calculated, not applied</u>. The appraiser should evaluate the value of the properties without the project, and then with it, and measure the difference. Here the appraiser has not met the burden of proof of a value lift, as the latter is concluded and added, not measured as a difference.

c. Before & After Descriptions

There is very little clarity in the appraisal as to the precise difference between the Before and After. The appraisal acknowledges that the viaduct is down in the before, but it is not clear how the value lift associated

with the viaduct removal is built into the before value estimates. Further the level of improvement that would be undertaken by the city, but for the LID, is not described in detail. With no side-by-side comparison of images, it is not possible to know what was in the mind of the appraiser making an assessment for provision of an "extra" amenity. Since the entire analysis relates to an aesthetic difference, appropriate renderings of the aesthetic difference created would seem to be critical for proper analysis.

The issue also extends to cost. The LID is noted as a $320,000,000 project. Yet the increment associated with the LID cost verses the investment that would occur anyway is not presented. The impression – that $320,000,000 would be invested but for the LID – would appear to be an inaccurate presentation. It would appear that the appraiser incorrectly measures the benefits resulting from a $320,000,000 investment, as opposed to those accruing from a smaller investment, representing the LID extra.

There is also no value discussion pertaining to timing; do assessments consider when the actual park will be complete, and therefore when the benefits, if present, will accrue? The interim condition and associated construction is likely to be disruptive: some properties will be "specially" as opposed to "generally" impacted by construction activity in terms of noise, dust, etc. Proximity, which is stressed as a special benefit, would represent a special negative as concerns related and proximate construction activity.

d. Assessments are not supported by empirical data

The evidence presented for special benefit is almost entirely anecdotal. The appraisal does not provide discrete and empirical before and after analyses of purportedly similar public projects across a wide-range of property takes. Anecdotal opinions of before and after, without apparent adjustment for general benefits, correction of blight issues and the passage of time, do not provide a convincing case for the assignment of a 0.5 to 4% value increase to a full spectrum of property types across a wide downtown area, many blocks away from the improvement.

Moreover, the level of assignment applied is largely immeasurable from an appraisal perspective. Application of a 0.5-4% value change on a general mass appraisal basis falls well below the standard of error already present in such an analysis – in effect the analysis reveals the benefit is immeasurable at this level. Even if individual "MAI appraisals" were completed on every individual property, it would be difficult if not impossible to measure the benefit of a park improvement a few blocks away to say, for instance, a downtown office tower. Take for example the 1201 Third Avenue office tower, valued at $716,942,500 - it would be hard to rationalize discrete adjustments of the magnitude presented here amid the myriad impacts on value such as market conditions, tenant sizes and rollovers, and different views and floor levels. The majority of the tower has no view of the park and no special access to it; a lease decision here would not logically include serious "special" consideration of a park three blocks away, and at a different elevation. Suggesting the property increased to $721,442,000 (a $4,500,000 or 0.6277% difference) on account of park proximity would seem to define a "*remote, speculative or imaginary*" adjustment.

e. Assessments include percentage assignments to improvement value

The assessments are based on a percentage assignment to total property value, in place in 2018. However, the project presented relates, purportedly, to a proximity benefit; this is a location factor, which is a land characteristic. Benefits from proximity do not accrue to improvement value, as the "bricks and mortar" are unchanged. This creates an inequity in the side-by-side comparison of improved and vacant land parcels, and one that is particular well illustrated in case of development properties that will imminently be developed. This methodological error is essentially a function of relying upon an across-the-board percentage adjustment, as compared to truly measuring before and after differences. Two examples are presented below:

Example 1: 1201 Third high-rise office v. 1206 Third across the street, high-rise under construction.

Property	Land Size	Building Size	Assessment	$/sf land	$/sf building
1201 Third	56,400sf	1,130,000sf	$4,500,000	$80/sf	$3.98/sf
1206 Third	43,680sf	720,000sf*	$1,023,000	$23/sf	$1.42/sf

* under construction; will be complete by 2023

1201 Third is located one block further from the park than 1206, and at a higher elevation. The higher assessment here is inequitable.

Example 2: Cyrene Apartments at Alaskan and University v. Woldson parking lot at 1100 Alaskan (with proposed development).

Property	Land Size	Units	Assessment	$/sf land	$/unit
50 University	17,333sf	169-units	$2,923,000	$169/sf	$17,296/unit
1100 Alaskan	35,233sf	256-units*	$1,233,000	$35/sf	$4,816/unit

* proposed; will probably be complete by 2023

Both properties have the same orientation to the park and lie at the same elevation. The higher assessment to the Cyrene Apartments at 50 University is thus inequitable.

Conclusion

In conclusion, the Special Benefits study presents several major issues. These include:

- The before condition is not adequately described; side-by-side illustrations of the before and after are not presented. This kind of descriptive detail would appear necessary for the purposes of evaluating an amenity or aesthetic difference to be specifically created through funding.
- Special benefits are merely assigned, not measured. The study does not provide a measurement of after value, with the project in place, that is independent of the before value, and takes into consideration delay until receipt.
- Purportedly measured benefits are not allocated into "general" and "special" benefits. Labelling all benefits as special does not appear credible for a regional park.
- Benefits associated with proximity should be evaluated in the form of a lift in land value. The methodology used (a broad percentage assessment applied to total property value) results in inequitable assignments between properties.

The more general issue is the difficulty of trying to forecast a benefit that is special to a park that has regional appeal. The more common application of an LID is for extension of infrastructure; and here special benefits can be practically and incrementally assessed to unserved property brought to a development condition through the provision of infrastructure. However, the application of the special benefit methodology to a downtown area for a park amenity, represents a challenging and potential impossible assignment, if it is to be free of speculation and imagination.

Respectfully submitted,

Anthony Gibbons, MAI, CRE

Ref: 181121-Waterfront LID