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Office of the City Clerk
Seattle City Hall
600 4th Ave Floor 3
Seattle, WA

RE: King County Parcel ID 2538831110, located at 1521 2nd Ave, Unit 2900, LID No 6751; CWF-0189

To the Seattle City Clerk:

I, the owner of the referenced parcel, objected to the Final Assessment for the parcel and now submit this appeal of the Recommendations of the Hearing Examiner regarding Waterfront LID No. 6751 Case No. CWF-0189. pursuant to:

> **SMC 20.04.090.C** Any finding, recommendation, or decision of the Hearing Examiner, or officer designated by the City Council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the City Council, which may direct that the appeal shall be heard by a committee thereof.

However, we are not able to follow the instructions pursuant to:

> **SMC 20.04.110 - Appeal to City Council.** In the event of an appeal to the City Council or a committee thereof the notice of appeal shall cite by page and line and quote verbatim that portion or portions of the findings, recommendations and decisions of the Hearing Examiner or officer from which the appeal is taken. The notice of appeal shall also include … a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found…

Because the City has not provided "metered index numbers", therefore our appeal cannot reference them. However, as part of the prehearing conference, we recommend that the Public Works committee secure and provide appellants with such a record, so that the appeals can then be supplemented with that additional information, so as to make the Committee's consideration of each individual appeal more efficient and fair. Instead page numbers of attached exhibits are referenced.

We request and demand an appeal hearing with the City Council.

We appeal from the following discussed portions of the Final Waterfront LID Assessment Findings and Recommendation of the Hearing Examiner.

1. Discussion

This appellant submitted a thoughtful and carefully researched and crafted 16 page set of objections, with 11 major headings of which one had 3 sub-headings and another had 7 sub-headings, a total of 19 objections every one of which deserved a full discussion and hearing and to be sustained on the merits.

The hearing examiner's trivial and dismissive response is quoted **in full** here:

> CWF-0189 (2538831110) – The objection raises the following common objection issues addressed below in the Legal Analysis section B: 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10. The objection includes these issues in the same summary form as many other objections but does include much more additional argument. Regardless of the amount of argument for the points raised by the Objector, there was no evidence specific to the subject property provided with the objection to support the issues raised, or to show that the property would not receive a special benefit, or that the valuation had been inaccurate. The Objector failed to meet the burden of proof required to demonstrate that the property will not receive a special benefit or that the City appraisal valuation process was flawed. Recommendation: denial

This ruling, confounding all 19 objections and sweeping them away in a single grandiose gesture, is problematic and inadequate for many reasons.

1(A). ***"Common Objection Issues:"*** First, the hearing examiner does not respond to each of my objections by number and with his opinion associated with it. This has the effect of forcing me to guess from his laundry list of 10 "common objection issues." This should not be my burden. I'm entitled to a specific ruling on each of my objections, so that I can frame an appropriate appeal as and if necessary.

1(B). ***"No Evidence:"*** Second, he asserts that there was "*no evidence specific to the subject property provided with the objection to support the issues raised, or to show that the property would not receive a special benefit, or that the valuation had been inaccurate*." This in turn has a couple of problems. 1(b)(1). First, the record of the assessment and its supporting valuation report and much other information is in fact in the record, along with attachments to my objections, and is what I relied on. No other evidence was necessary for the points that I made in my objections. 1(B)(2). And

secondly, his language suggests that this claimed evidence absence defeats all 19 of my arguments—he is non-specific about which of those 19 objections he refers to in asserting that evidence is lacking. Which goes back to parallel my point in 1(A); I'm entitled to specific rulings on each of my specific objections. It is impossible to rationally respond to this brief ruling with any confidence that I am actually responding to his real opinion. There were many "issues raised." There is much undisputed that my property will not receive a special benefit, including especially but not limited to its distance from the proposed improvements. And the valuation could not possibly be accurate given that it is so far inside the margin of error. There is no need to repeat the entire discussion; my objections can speak for themselves with regard to uncontested facts included.

1(C). ***Estoppel from accepting evidence in the record***: Thirdly, the hearing examiner by email on January 29th sent an email, the relevant portions copied here:

> "We are in receipt of your email related to the Seattle Waterfront LID.
>
> Please be advised this email and any attached documents will be accounted for in the Hearing Examiner's Assessment Roll Hearing report to City Council and *will also be included in the official record*.
>
> Persons filing written objections *may but are not required* to appear at the assessment roll hearing to state your views. …
>
> Persons who *wish to state their views at the hearing*, concerning an objection they have filed, may sign-up to speak starting at 8:00 AM PST on the day of the hearing. Depending on the number of owners and representatives who choose to attend the hearing and orally present their objections, it may be necessary to recess and continue the hearing, once commenced, to later dates and times." (My emphasis.)

The email itself is attached to this appeal.

This certainly led me fairly to believe that attending the hearings was an opportunity only to state my views, actually to restate them, which I felt were more than adequately stated in my filed objections making appearing unnecessary. The email says my objections were to be "part of the record." Objectors "may but are not required to appear…"

If a failure to appear is equal to a failure of evidence, as the hearing examiner's opinion quoted earlier above states, then we as objector's were seriously mislead.

But the facts are in fact there, in the record. To the extent facts are asserted in my objections, they are consistent with the overall record. My full 16 page statement of objections is attached to this appeal, in which it is clear that there is little if anything that needed further backup. The hearing examiner has acknowledged that testimony of others supports similar objections by all, *see* his opinion at page 109.

- To the small extent, if any, that they are not, they carry the same weight as the facts stated by the appraiser or anyone else. I'm a property owner, entitled to speak to my property's value.
- It is clear that the waterfront improvements are dominantly a corporate improvement of the entire city, not a local improvement.
- I can see in the record that the city failed to study the general benefits versus the special benefits.
- Any fair reading of the appraiser's report shows it to be arbitrary and speculative, a pretextual sham with a pre-ordained conclusion. This has been well documented by the comments made by other appraisers on the record, as well as by the many observations to that point made in the objections filed by myself and all others.
- Etc., throughout my entire set of 19 objections. There is an abundance of evidence in support, and in fact it is the opposite case—the paucity of evidence goes against the city. But again, it isn't my job to go through each objection guessing whether or not it is subject to the hearing examiner's unjustified sweeping claim that all are unsupported.

2. Bias and a lack of due and fair process:

There is no basis for the hearing examiner to assert that there was no evidence supporting my claims, and he is estopped from taking that position based on his email quoted above. He made it clear that the written objection could stand for its assertions, that appearing in person was simply an additional way to "state your views".

A fair reading of the hearing examiner's opinion leads one to the certain belief that the result was foreordained, that the "fix was in." Time after time the opinion dismisses evidence from objectors and accepts the evidence of the city, despite the fact that the

objections carry a great level of persuasiveness. This is true of the appraiser's valuation, which is sloppy and incomplete a based on broad assumptions that can't possibly be universally valid. And which finds tiny percentage improvements in value, well within the generally accepted margins of appraisal error. The sweeping dismissal of all of my objections as pari pasu with 10 common objections, and the similarly sweeping claim that my objections weren't supported by evidence, is a great example of an opinion written to get to a pre-ordained end.

This entire process is lacking in the basics of due process and fair process. The hearing examiner's job is apparently to accomplish the result the city desires, without regard to the merits of the objections.

3. Relief:

I ask that the assessment roll and this entire LID effort be cancelled, dismissed, and abandoned, and demand a full, proper, and fair hearing with full due process on all of my objections before the city council.

M. Barton Waring

Attachments:

- My Original LID Tax Objection filed in this case, with its attachments:
- Anthony Gibbons Letter (May 2, 2018).
- Third Amended Complaint, King County Superior Court Case No. 19-2-05733-5 SEA (Consolidated with No. 19-2-08787-1 SEA).
- Two letters from the hearing examiner.