The Honorable John R. Ruhl

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

255 SOUTH KING STREET LIMITED PARTNERSHIP, a Washington limited partnership; 618 SECOND AVENUE LIMITED PARTNERSHIP, a Washington limited partnership; 1000 1ST AVENUE LIMITED PARTNERSHIP, a Washington limited partnership; and 1016 1st AVENUE LIMITED PARTNERSHIP, a Washington limited partnership, Plaintiffs, vs. CITY OF SEATTLE, a Washington municipal corporation, Defendant.	No. 19-2-05733-5 SEA (Consolidated with No. 19-2-08787-1 SEA) **THIRD AMENDED COMPLAINT FOR DECLARATORY RELIEF AND DAMAGES**
EUGENE A. BURRUS and LEAH S. BURRUS, husband and wife and the marital community comprised thereof; WILLIAM J. JUSTEN and SANDRA L. JUSTEN, husband and wife and the marital community comprised thereof; THEODORE T. TANASE and PRISCILLA B. TANASE, husband and wife and the marital community comprised thereof; DAVID STARR, an individual; VASANTH PHILOMIN and KARIN PHILOMIN, husband and wife and the marital community	No. 19-2-08787-1 SEA (Judge Ken Schubert)

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comprised thereof; DANIEL TUPPER and PATRICIA TUPPER, husband and wife and the marital community comprised thereof; JOHN DRINKARD and JANET DRINKARD, husband and wife and the marital community comprised thereof; FRANK KATZ and ELISE KATZ, husband and wife and the marital community comprised thereof; DEBORAH BOGIN COHEN and RICHARD B. OSTERBERG, Trustees of the ZVI Cohen Family Trust; JOHN A. BATES and CAROLYN CORVI, husband and wife and the marital community comprised thereof; HARVEY ALLISON and MEI WENG ALLISON, husband and wife and the marital community comprised thereof; VICTOR C. MOSES and MARY K. MOSES, Trustees under the 2007 Moses Trust; NANCY E. DORN and CAROL A. VERGA, a married couple; ALEXANDER W. BRINDLE, SR., an individual; TOM H. PEYREE and SALLY L. PEYREE, Trustees of The Thomas H. Peyree and Sally L. Peyree Revocable Trust; ANTON P. GIELEN and KAREN N. GIELEN, husband and wife and the marital community comprised thereof; KEITH PAUL KLUGMAN and MAGDERIE KLUGMAN, husband and wife and the marital community comprised thereof; ANDREW P. MARIN and CYNTHIA J. MARIN, Trustees of The Andrew P. Marin and Cynthia J. Marin Family Revocable Trust; DANIEL S. FRIEDMAN and MYRA A. FRIEDMAN, husband and wife and the marital community comprised thereof; HOLLY MORRIS, an individual; and RONALD EVAN WALLACE, an individual,

Plaintiffs,

vs.

CITY OF SEATTLE, a Washington municipal corporation,

Defendant.

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COME NOW the Plaintiffs by and through their attorneys of record, Garth A. Schlemlein, and Jesse O. Franklin IV, of Schlemlein, Fick, & Scruggs, PLLC, and allege as follows:

I. INTRODUCTION

This third amended complaint arises from the flawed process by which the Defendant City of Seattle (the "City") created a Waterfront Local Improvement District ("Waterfront LID") under color of Chapter 35.43 RCW, et seq., City Council Bills 119447, 119448, and 119449, and the passage of City Ordinances 125760, 125761, and 125762. The City has issued an assessment roll and the City intends to issue a final assessment roll to assess properties within the Waterfront LID which "specially benefit" from the Waterfront LID improvements, including assessments to the Plaintiffs' properties and other properties from T-Mobile Park to Denny Way and from Elliott Bay to I-5, to pay the City collectively more than $160 million. The preliminary assessments for the Waterfront LID were not fairly and properly estimated by external experts.

In addition to the above, the actions of the City and the City Council violated Article 1, Section 1 of the Washington State Constitution; Article 1, Section 3 of the Washington State Constitution; Article 1, Section 4 of the Washington State Constitution; State Environmental Policy Act, Chapter 43.21C RCW; Chapter 25.05 of the Seattle Municipal Code; and Washington Administrative Code 197-11.

II. JURISDICTION AND VENUE

2.1 The Court has jurisdiction over the case pursuant to RCW §2.08.010, Chapter 7.16 RCW, Chapter 7.24 RCW, Chapter 7.40 RCW, and Chapter 43.21C RCW.

2.2 Venue is proper in King County, Washington, pursuant to RCW §4.12.010 and §4.12.020.

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III. PARTIES

3.1 Plaintiff 255 SOUTH KING STREET LIMITED PARTNERSHIP (255 LP) is a Washington limited partnership and the owner of 255 South King Street, Seattle, Washington.

3.2 Plaintiff 618 SECOND AVENUE SOUTH LIMTED PARTNERSHIP (618 LP) is a Washington limited partnership and the owner of 618 Second Avenue, Seattle, Washington.

3.3 Plaintiff 1000 1ST AVENUE SOUTH LIMITED PARTNERSHIP (1000 LP) is a Washington limited partnership and the owner of 1000 and 1006 1st Avenue South, Seattle, Washington.

3.4 Plaintiff 1016 1ST AVENUE SOUTH LIMITED PARTNERSHIP (1016 LP) is a Washington limited partnership and the owner of 1016 1st Avenue South, Seattle, Washington.

3.5 Plaintiffs Eugene A. Burrus and Leah S. Burrus, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 1702, Seattle, Washington 98101. They have owned and resided in that property since 2012. They are property owners and residents within the Waterfront LID.

3.6 Plaintiffs William J. Justen and Sandra L. Justen, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 2901, Seattle, Washington 98101. They have owned and resided in that property since 2009. They are property owners and residents within the Waterfront LID.

3.7 Plaintiffs Theodore T. Tanase and Priscilla B. Tanase, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 2403, Seattle, Washington 98101. They have owned and resided in that property since 2013. They are property owners and residents within the Waterfront LID.

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3.8 Plaintiff David Starr owns and resides in the condominium located at 2125 First Avenue, Unit 3004, Seattle, Washington 98121. He has owned and resided in that property since 2016. He is a property owner and resident within the Waterfront LID.

3.9 Plaintiffs Vasanth Philomin and Karin Philomin, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 2400, Seattle, Washington 98101. They have owned and resided in that property since 2017. They are property owners and residents within the Waterfront LID.

3.10 Plaintiffs Daniel Tupper and Patricia Tupper, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 3001, Seattle, Washington 98101. They have owned and resided in that property since 2012. They are property owners and residents within the Waterfront LID.

3.11 Plaintiffs John Drinkard and Janet Drinkard, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 2301, Seattle, Washington 98101. They have owned and resided in that property since 2008. They are property owners and residents within the Waterfront LID.

3.12 Plaintiffs Frank Katz and Elise Katz, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 3003, Seattle, Washington 98101. They have owned and resided in that property since 2017. They are property owners and residents within the Waterfront LID.

3.13 Plaintiffs Deborah Bogin Cohen and Richard B. Osterberg, Trustees of the ZVI Cohen Family Trust, own the condominium located at 1521 Second Avenue, Unit 2102, Seattle, Washington 98101. Ms. Cohen has owned and resided in that property since 2009. She is a property owner and resident within the Waterfront LID.

3.14 Plaintiffs John A. Bates and Carolyn Corvi, husband and wife, and own and reside in the condominium located at 1521 Second Avenue, Unit 1501, Seattle, Washington

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98101. They have owned and resided in that property since 2012. They are property owners and residents within the Waterfront LID.

3.15 Plaintiffs Harvey Allison and Mei Weng Allison, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 3100, Seattle, Washington 98101. They have owned and resided in that property since 2009. They are property owners and residents within the Waterfront LID.

3.16 Plaintiffs Victor C. Moses and Mary K. Moses, Trustees under the 2007 Moses Trust, own and reside in the condominium located at 1521 Second Avenue, Unit 2304, Seattle, Washington 98101. They have owned and resided in that property since 2012. They are property owners and residents within the Waterfront LID.

3.17 Plaintiffs Nancy E. Dorn and Carol A. Verga, a married couple, own and reside in the condominium located at 1521 Second Avenue, Unit 2302, Seattle, Washington 98101. They have owned and resided in that property since 2011. They are property owners and residents within the Waterfront LID.

3.18 Plaintiff Alexander W. Brindle, Sr. owns and resides in the condominium located at 1521 Second Avenue, Unit 2000, Seattle, Washington 98101. He has owned and resided in that property since 2013. He is property owner and resident within the Waterfront LID.

3.19 Plaintiffs Tom H. Peyree and Sally L. Peyree, Trustees of The Thomas H. Peyree and Sally L. Peyree Revocable Trust, own and reside in the condominium located at 1521 Second Avenue, Unit 3700, Seattle, Washington 98101. They have owned and resided in that property since 2009. They are property owners and residents within the Waterfront LID.

3.20 Plaintiffs Anton P. Gielen and Karen N. Gielen, husband and wife, own and reside in the condominium located at 1009 Western Avenue, Unit 1209, Seattle, Washington 98104. They have owned and resided in that property since 2013. They are property owners and residents within the Waterfront LID.

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3.21 Plaintiffs Keith Paul Klugman and Magderie Klugman, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 2103, Seattle, Washington 98101. They have owned and resided in that property since 2013. They are property owners and residents within the Waterfront LID.

3.22 Plaintiffs Andrew P. Marin and Cynthia J. Marin, Trustees of The Andrew P. Marin and Cynthia J. Marin Family Revocable Trust, own and reside in the condominium located at 1521 Second Avenue, Unit 3002, Seattle, Washington 98101. They have owned and resided in that property since 2009. They are property owners and residents within the Waterfront LID.

3.23 Plaintiffs Daniel S. Friedman and Myra A. Friedman, husband and wife, own and reside in the condominium located at 1521 Second Avenue, Unit 3400, Seattle, Washington 98101. They have owned and resided in that property since 2009. They are property owners and residents within the Waterfront LID.

3.24 Plaintiff Holly Morris, an individual, owns and resides in the condominium located at 1507 Western Avenue, Unit 101, Seattle, Washington 98101. She has owned and resided in that property since 1999. She is property owner and resident within the Waterfront LID.

3.25 Plaintiff Ronald Evan Wallace, an individual, owns and resides in the condominium located at 1507 Western Avenue, Unit 606, Seattle, Washington 98101. He has owned and resided in that property since 1998. He is property owner and resident within the Waterfront LID.

3.26 All Plaintiffs have been informed by the City that they will be subject to an assessment under the Waterfront LID.

3.27 Defendant City is a municipal corporation lying in King County, Washington, with its principal place of business at Seattle City Hall, at 600 4th Avenue, Seattle, Washington.

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3.28 Defendant City is the employer of the offending Mayor, Jenny Durkan, and the offending City Council members at issue, Sally Bagshaw, Lorena Gonzalez, Rob Johnson, Deborah Juarez, Teresa Mosqueda, Kshama Sawant and Mike O'Brien.

IV. FACTS

Flawed Creation of Waterfront Local Improvement District

4.1 Nearly seven years ago, the Seattle City Council ("City Council") approved a Waterfront Strategic Plan for the area of downtown Seattle stretching for 26 blocks along the City's waterfront. The Waterfront Strategic Plan was approved in 2012 and included a funding plan, which included the framework for a Local Improvement District ("LID") to fund $200 million of the anticipated $1.3 billion Central Waterfront Improvement Program.

4.2 An LID is an assessment program through which the City, through Chapter 35.43 RCW, et seq., may impose assessments upon property owners to pay for a project that allegedly will "specially benefit" them. Common LID projects include sewer and water systems. The City may not charge property owners more than the actual value of the special benefit actually received by the assessed properties from the project – called the "Special Benefit." Furthermore, an LID's assessments must be proportional between the properties.

4.3 The Special Benefit is defined as the increase in fair market value attributable to the local improvements.

4.4 The City has not provided a sufficient list or description of the actual improvements included in the Waterfront LID, e.g., a new public park or just sidewalks and trees adjacent to roadways and arterials, to permit property owners in the Waterfront LID to evaluate the alleged improvements.

4.5 The Council did not act until May 2018, when it passed a Resolution of Intent to form the Waterfront LID, known as Resolution 31812 (the "Resolution").

4.6 The total amount to be assessed against property owners in the Waterfront LID is $160 million, plus $16 million in administrative costs.

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4.7 The City arbitrarily and capriciously, or, on a fundamentally wrong basis, decided which properties, including the Plaintiffs' properties, would be included or not included within the Waterfront LID.

4.8 The City arbitrarily and capriciously, or, on a fundamentally wrong basis, decided which properties, including the Plaintiffs' properties, would "Specially Benefit" from the Waterfront LID, even if the properties are blocks away from the Project. The Waterfront LID area stretches from T-Mobile Park to Denny Way and from Elliott Bay to I-5. Numerous properties are several blocks away from the planned LID Improvements. The City did not consider or rely upon any evidence suggesting that these properties (properties included within the Waterfront LID are several blocks away from the specific planned improvements) would benefit. The City also arbitrarily and capriciously, or, on a fundamentally wrong basis, assessed various businesses, like hotels, including the Plaintiffs' hotels, to pay more than other businesses that are in fact closer to the Waterfront LID Improvements. Additionally, the City did not assess properties that are currently under construction in the Waterfront LID area – properties that would otherwise also specially benefit and should be considered subject to the assessment had they been open when the Waterfront LID was established. If a Special Benefit exists, these properties will undoubtedly benefit as well.

4.9 The City, in its decision and notice, failed to distinguish between the general benefits of the Waterfront LID Improvements to the public and the Special Benefits, if any, of the Waterfront LID Improvements to the Plaintiffs' property and the proper economic valuation of the same.

4.10 The City, in its decision and notice, failed to distinguish between the benefits of several projects ongoing within the Central Waterfront, e.g., Viaduct demolition, new Alaskan/Elliott Way surface street, new /improved Seawall, State Route 99 Tunnel, Pier 62 rebuild, Bell St. Improvements, and, the 115 parking spaces fronting piers between Pike and

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Madison, and the Special Benefits, if any, of the Waterfront LID Improvements to the Plaintiffs' property and the proper economic valuation of the same.

4.11 The City failed to assess other properties located within the Waterfront LID for the Special Benefits, if any, of the Waterfront LID Improvements and the proper economic valuation of the same.

4.12 The City failed to assess other properties not located within the Waterfront LID for the Special Benefits, if any, of the Waterfront LID Improvements and the proper economic valuation of the same.

4.13 The preliminary special assessments for the Waterfront LID were not fairly and properly estimated by external experts.

4.14 Following the Resolution, the City published a preliminary special benefit study – which includes "data and assumptions" determined to calculate a "preliminary special benefit." In June 2018, the City claims it mailed out letters of their plans to affected property owners and its initial assessment.

4.15 Between the dates of July 13-28, 2018, the Seattle Hearing Examiner (the "Hearing Examiner") held initial hearings and received public comment on the Waterfront LID.

4.15.1 Plaintiffs submitted written protests to the Waterfront LID as well as submitted comments to the Hearing Examiner.

4.16 After hearing 333 comments on the potential Waterfront LID, the Hearing Examiner published its Report on the hearing.

4.17 Per their website, the City Council claims the Waterfront LID formation is a "quasi-judicial process" and thus, the Council and all Councilmembers are forbidden from direct or indirect communication about the Waterfront LID outside of a public hearing or meeting, and did in fact tell property owners they could not meet with them.

4.18 Mayor Jenny Durkan proclaims this Waterfront LID as a "Park for All."

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4.19 Defendant City has failed in the past to maintain parks. For example, Victor Steinbrueck Park, also located downtown near the waterfront, is home to many unhoused individuals and is a place for many to use drugs and alcohol and commit other crimes and offenses. Absent evidence that the City will properly keep and maintain the alleged "park," there is no Special Benefit to the assessed property owners from the park.

4.20 On January 25, 2019, the City Council published a public memorandum that admitted to numerous ex-parte communications with parties about the Waterfront LID.

4.21 On January 28, 2019, the City Council passed Ordinance 125760,[1] forming the Waterfront LID, despite clear objections from property owners and requests that City Council members recuse themselves. That same day, Mayor Jenny Durkan signed Ordinance 125760.

4.22 On January 28, 2019, the City Council also passed Ordinance 125761 (generally related to funding, operations and management) and Ordinance 125762 (LID protest waiver agreement). That same day, Mayor Jenny Durkan signed Ordinance 125761 and Ordinance 125762.

4.23 The Waterfront LID Protest Period began on January 28, 2018.

4.24 Plaintiffs submitted formal protests and comments to the City in July 2018, and again in January 2019.

4.25 The Seattle City Council is composed of nine voting members. An ordinance can pass the council by a majority vote of five members and a mayoral veto of an ordinance can be overcome by a vote of a supermajority of six members.

4.26 At least seven City Council members and their staff participated in private meetings with proponents of the Waterfront LID that were not during a public hearing or meeting. These meetings contributed to an effort to achieve a collective positive decision in

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[1] In its Complaint, filed on Wednesday, February 27, 2019, Plaintiffs' 255 LP and 618 LP, misidentified the ordinance number under which the Mayor and the City Council adopted and passed the Waterfront LID.

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support of the eventual Waterfront LID, in part, through the exchange of one sided or unreliable information.

Lack of Consent of the Governed

4.27 Prior to 2013, the nine members of the City Council were elected on a citywide basis. Every voter in the City had the opportunity to vote for every member of the City Council.

4.28 All City LIDs by Resolution, prior to the Waterfront LID, were formed by the City Council which was elected on a citywide basis. Those prior City LIDs did not raise the constitutional issues that are raised by the Waterfront LID because the Waterfront LID was imposed by a City Council elected on a district basis as opposed to a citywide basis.

4.29 In 2013, the City Council representation was switched to a district representative model. Since the switch, the nine members of the City Council consist of two citywide "at large" members, and seven representatives of seven geographic districts. A copy of a graphic image of the seven City Council districts is attached hereto as Exhibit A and incorporated by reference.

4.30 As a result of the switch, a voter in Seattle is able to only cast votes for three of the nine members of the City Council: the two at-large members and the one member representing their specific geographic district within the City.

4.31 Residents within the Waterfront LID, which is located entirely within City Council District 7, have political recourse (i.e., a vote) but it is limited to only three of the nine members of the City Council.

4.32 As a result, the Waterfront LID could be imposed by a supermajority of six members of the City Council, none of whom the residents of the Waterfront LID could ever vote either for or against. In addition, using the Waterfront LID as an example, the voters for those six members would not be subject to the Waterfront LID and its assessments.

4.33 Every LID created and passed by the City Council in the future through the district representative model is subject to the same constitutional defect.

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4.34 In early 2018, the city began a program to publicize the possibility of a LID and the impact it would have on property owners within the proposed LID.

4.35 On May 2, 2018, a meeting of the Civic Development, Public Assets & Native Communities Committee was held at which the proposed Waterfront LID was to be discussed and, as a result, was included on the agenda. A large number of property owners attended that meeting to speak in opposition to the proposed LID and to support speakers. The speakers almost unanimously opposed the LID.

4.36 However, the futility of the exercise of political protest and speech became apparent at that meeting. The only member of the City Council present at the meeting was Deborah Juarez, the representative of City Council District 5, North Seattle. While Councilwoman Juarez listened politely, none of the people speaking were residents within City Council District 5, because none of the residents of her district would be subject to the proposed LID. She had no political reason to care about the concerns of the Waterfront LID property owners. She could vote for the Waterfront LID to bring the benefit of a "Waterfront for All" to the residents and voters in her district, City Council District 5, while imposing the costs on people to whom she does not represent and is not answerable to at the polls.

4.37 The reality facing the residents within the Waterfront LID crystallized. Their only hope was to beg for mercy from City Council members representing City Council Districts in which they could not vote and whose residents would not be subject to the Waterfront LID. When the Waterfront LID was passed in 2019, it was clear that mercy was not forthcoming. The Plaintiffs have no political recourse against the supermajority of the City Council that imposed the Waterfront LID upon them.

4.38 Plaintiffs submitted formal protests and comments about the Waterfront LID to the City.

4.39 At least seven City Council members and their staff participated in private meetings with proponents of the Waterfront LID that were not during a public hearing or

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meeting. These meetings contributed to an effort to achieve a collective positive decision in support of the eventual Waterfront LID, in part, through the exchange of one sided or unreliable information.

4.40 Prior to the City Council vote on January 28, 2019, City Council members communicated with each other directly and indirectly about their decisions to approve the Waterfront LID for a reduced amount of $160 million. These meetings resulted in a collective positive decision in support of the eventual Waterfront LID.

4.41 As a result of the City's actions and inactions as outlined above in paragraphs 4.1 to 4.23, the City violated Chapter 35.43 RCW, et seq.

State Environmental Policy Act Violations

4.42 The City's Alaskan Way, Promenade, Overlook Walk Final Environmental Impact Statement (AWPOW FEIS) addresses just four of the six Waterfront LID Improvements.

4.43 The AWPOW FEIS does not address the Waterfront LID.

4.44 According to the mailing list for the AWPOW FEIS, notice was not provided to all nine City Councilmembers.

4.45 According to the mailing list for the AWPOW FEIS, notice was not provided to all property owners within the Waterfront LID.

4.46 Three community groups appealed the AWPOW FEIS, and the City settled out of court with them. No notice of the settlement was provided to the Waterfront LID property owners or the public.

4.47 According to the City's discovery answers to date, the City has no obligation to inform decision-makers like the City Council about the Waterfront LID Improvements' environmental impacts or any appeals thereof.

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4.48 Plaintiffs' interests are within the zone of interests protected by SEPA because Plaintiffs are concerned about and will be adversely impacted by the Waterfront LID and the Waterfront LID Improvements.

V. CAUSES OF ACTION

5.1 Declaratory Relief – Violation of Article 1, Section 1 of the Washington State Constitution

5.1.1 Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.1.2 Article 1, Section 1 of the Washington State Constitution sets forth the most fundamental premise of our democratic self-governance: "governments derive their just powers from the consent of the governed."

5.1.3 The Waterfront LID represents a perversion of that most basic principle of self-governance. The Plaintiffs and other residents within the Waterfront LID have never consented to its imposition and are politically powerless to stop it. It is being imposed by six members of the City Council for whom the Plaintiffs can neither vote for nor vote against. Even if every member of the City government for whom the Plaintiffs can vote opposed the Waterfront LID (the mayor, two at large members and one district representatives), it would still be imposed by this supermajority of council members whose residents and voters will not be subject to the Waterfront LID assessments.

5.1.4 It is common in a democratic society that revenue and taxing issues are debated among those to be taxed and the people then have the opportunity (either via direct vote, or by voting for representative legislators) to express their agreement or disagreement with the proposed

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revenue raising measure. The citizens have the opportunity to vote for measures or representatives.

5.1.5 That was not the case here. Six members of the City Council for whom those subject to the Waterfront LID never will get to vote either for or against (and whose voters will not be subject to the Waterfront LID and will suffer no assessment) imposed this upon residents within the Waterfront LID to whom they do not answer.

5.1.6 It cannot be a valid exercise of power under Article 1, Section 1 of the Washington State Constitution, if the only recourse for citizens to an action of the government is to beg for mercy from people over whom a citizen has no political recourse.

5.1.7 The City's conduct constitutes a violation of Article 1, Section 1 of the Washington State Constitution.

5.1.8 Plaintiffs have been damaged and will be damaged in an amount to be proven at trial.

5.1.9 Plaintiffs seek declaratory judgment that the City's actions in the creation of the Waterfront LID violate Article 1, Section 1 of the Washington State Constitution and as a result, the Waterfront LID should be invalidated.

5.2 Declaratory Relief – Violation of Article 1, Section 3 of the Washington State Constitution

5.2.1. Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.2.2. Article 1, Section 3 of the Washington State Constitution states "no person shall be deprived of life, liberty or property, without due process of law."

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5.2.3. The imposition of the Waterfront LID by a supermajority of the City Council for whom the residents within the Waterfront LID do not get to vote for or against and for whom they have no political recourse whatsoever represents a deprivation of property without any process of law.

5.2.4. The only recourse for Waterfront LID residents is to beg for mercy from six members of the City Council for whom they do not have a vote and whose residents will not be subject to the deprivation of property. This represents a fundamental violation of due process rights.

5.2.5. The City's conduct constitutes a violation of Article 1, Section 3 of the Washington State Constitution.

5.2.6. Plaintiffs have been damaged and will be damaged in an amount to be proven at trial.

5.2.7. Plaintiffs seek declaratory judgment that the City's actions in the creation of the Waterfront LID violate Article 1, Section 3 of the Washington State Constitution and as a result, the Waterfront LID should be invalidated.

5.3 Declaratory Relief – Violation of Article 1, Section 4 of the Washington State Constitution

5.3.1. Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.3.2. Article 1, Section 4 of the Washington State Constitution states "the right of petition and of the people peaceably to assemble for the common good shall never be abridged"

5.3.3. The right of petition of the Plaintiffs and residents within the Waterfront LID to petition against its imposition has been fundamentally abridged. Rather than the right to petition and persuade, and, if necessary, vote

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against, elected officials proposing a course of action by the government, the Plaintiffs only recourse was to beg for mercy from City Council members for whom they get no vote and over whom they have no political power or influence. Plaintiffs right of petition has been abridged by the imposition of the Waterfront LID by a supermajority of the City Council for whom the residents within the Waterfront LID do not get to vote for or against and for whom they have no political recourse.

5.3.4. The City's conduct constitutes a violation of Article 1, Section 4 of the Washington State Constitution.

5.3.5. Plaintiffs have been damaged and will be damaged in an amount to be proven at trial.

5.3.6. Plaintiffs seek declaratory judgment that the City's actions in the creation of the Waterfront LID violate Article 1, Section 4 of the Washington State Constitution and as a result, the Waterfront LID should be invalidated.

5.4 Declaratory Relief - Chapter 35.43 RCW, et seq.

5.4.1 Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.4.2 The City, through its adoption of Ordinance 125760, created a Waterfront Local Improvement District under color of Chapter 35.43 RCW, et seq.

5.4.3 The City has assessed properties within the Waterfront LID, including the Plaintiffs' properties, to pay the City collectively $160 million, plus administrative costs of $16 million.

5.4.4 The City failed to comply with the requirements of Chapter 35.43 RCW, et seq., as follows:

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5.4.4.1 The City has not maintained a consistent or sufficient list or description of the actual improvements included in the Waterfront LID, e.g., a new public park or just sidewalks and trees adjacent to roadways and arterials.

5.4.4.2 The City arbitrarily and capriciously decided which properties, including the Plaintiffs' properties, would be included or not included within the Waterfront LID.

5.4.4.3 The City failed to distinguish between the general benefits of the Waterfront LID to the public generally and the Special Benefits, if any, of the Waterfront LID to the properties assessed within the Waterfront LID, including the Plaintiffs' properties, and the proper economic valuation of the same.

5.4.4.4 The City arbitrarily and capriciously, or, on a fundamentally wrong basis, decided which properties, including the Plaintiffs' properties, would "specially benefit" from the Waterfront LID.

5.4.4.5 The City also arbitrarily and capriciously, or, on a fundamentally wrong basis, assessed various businesses, like hotels, including two of the Plaintiffs' properties, to pay more than other businesses that are in fact closer to the Waterfront LID Project, instead of a proportionate assessment as required by law.

5.4.4.6 The City failed to assess other properties located within the Waterfront LID for the Special Benefits, if any, of the Waterfront LID and the proper economic valuation of the same.

5.4.4.7 The City did not assess properties and the businesses located thereon, that are currently under construction, in the Waterfront LID area.

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5.4.4.8 The City has failed to account for, or otherwise address, the need to maintain any alleged "park" included in the Waterfront LID.

5.4.5 Plaintiffs' rights, status and other legal relationships have been adversely affected by the City's decision to adopt Ordinance 125760.

5.4.6 The City's actions in adopting Ordinance 125760 in contravention of the intended purpose of Chapter 35.43 RCW, et seq. is a matter of public interest.

5.4.7 The public interest will be enhanced by the Court's review of the City's actions in adopting Ordinance 125760 under color of Chapter 35.43 RCW, et seq.

5.4.8 Pursuant to RCW 7.24, Plaintiffs are entitled to have the Court review the controversy and declare the rights, status, and other legal relations of the Plaintiffs in regard to the City's action. The enactment of Ordinance 125760 creates an actual, present, and existing dispute with the City due to the Ordinance's impact on the Plaintiff's economic interest and property.

5.4.9 Pursuant to RCW 7.24, plaintiff petitions for declaratory judgment that Ordinance 125760 was created in violation of Chapter 35.43 RCW, et seq. and SMC 20.04.

5.4.10 Plaintiffs have been damaged and will be damaged in an amount to be proven at trial.

5.4.11 No other remedy is adequate to protect the Plaintiffs' property interests.

5.4.12 The City's decisions related to the approval of the Waterfront LID and the adoption of Ordinance 125760 should be invalidated.

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5.5 Declaratory Relief – Substantive Due Process

5.5.1 Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.5.2 Defendant City acting under color of law, subjected, or caused to be subjected, each of the Plaintiffs here to deprivation of rights under the State of Washington ("State") and Federal Constitutions, and laws.

5.5.3 The City has acted in an arbitrary and capricious manner, or, on a fundamentally wrong basis, without legitimate fact finding or purpose in violation of Plaintiff's rights to substantive due process under both the State and Federal Constitutions. For example only, it is unclear how the Waterfront LID, through the adoption of Ordinance 125760, will actually, specially benefit the properties included in the Waterfront LID, which include the Plaintiffs' properties, (arbitrarily drawn lines and assessed properties, poorly maintained parks in the past – likely to hurt properties more than provide benefits). Moreover, and by way of example only, if any benefit does exist – it is a general benefit for all, not just the property owners included in the Waterfront LID which include the Plaintiffs' properties, which exist blocks away from the Project.

5.5.4 Plaintiffs are entitled to have the Court review the controversy and declare the rights, status, and other legal relations of the Plaintiffs in regard to the City's action. The City's actions create an actual, present, and existing dispute with the City due to the Waterfront LID's impact on the Plaintiff's economic interest and property.

5.5.5 The City's conduct constitutes a deprivation of substantive due process.

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5.5.6 Pursuant to RCW 7.24, plaintiff petitions for declaratory judgment that the City's actions in the creation of the Waterfront LID and the adoption of Ordinance 125760 are a violation of substantive due process.

5.5.7 Plaintiffs have been damaged and will be damaged in an amount to be proven at trial.

5.5.8 No other remedy is adequate to protect the Plaintiffs' property interests.

5.5.9 As a result of the due process violations, the Waterfront LID and the adoption of Ordinance 125760 should be invalidated.

5.6 Declaratory Relief – Procedural Due Process

5.6.1 Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.6.2 Defendant City acting under color of law, subjected, or caused to be subjected, each of the Plaintiffs here to deprivation of rights under the State and Federal Constitutions and laws.

5.6.3 The City's conduct in creating the Waterfront LID and passing Ordinance 125760 deprived plaintiffs of their property, economic interest and expectations without notice and an opportunity to be heard.

5.6.4 The City's conduct constituted a deprivation of procedural due process without proper notice.

5.6.5 Plaintiffs are entitled to have the Court review the controversy and declare the rights, status, and other legal relations of the Plaintiffs in regard to the City's action. The enactment of Ordinance 125760 creates an actual, present, and existing dispute with the City due to the Ordinance's impact on the Plaintiff's economic interest and property.

5.6.6 Pursuant to RCW 7.24, plaintiffs petition for declaratory judgment that Ordinance 125760 was created in violation of procedural due process.

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5.6.7 Plaintiffs have been damaged and will be damaged in an amount to be proven at trial.

5.6.8 No other remedy is adequate to protect the Plaintiffs' property interests.

5.6.9 As a result of the due process violations, the City's adoption of Ordinance 125760 should be invalidated.

5.7 Declaratory Relief – Equal Protection Violation

5.7.1 Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.7.2 Plaintiffs are entitled to have the Court review the controversy and declare the rights, status, and other legal relations of the Plaintiffs in regard to the City's action. The enactment of Ordinance 125760 creates an actual, present, and existing dispute with the City due to the Ordinance's impact on the Plaintiff's economic interest and property.

5.7.3 Pursuant to RCW 7.24, plaintiff petitions for declaratory judgment that Ordinance 125760 was created in violation of Plaintiffs' rights to equal protection.

5.7.4 No other remedy is adequate to protect the Plaintiffs' property interests.

5.7.5 Plaintiffs have been damaged and will be damaged in an amount to be proven at trial.

5.7.6 If Ordinance 125760 is not invalidated, then through their conduct, the City treated each of the Plaintiffs' properties and interests differently from other similarly-situated persons and entities without legitimate purpose in violation of each of the Plaintiffs' rights to equal protection under the law.

5.7.7 As a result of the due process violations, the City's adoption of Ordinance 125760 should be invalidated.

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5.8 State Environmental Protection Act Violation

5.8.1 Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.8.2 In adopting the Waterfront LID and Ordinance 125760, the City failed to comply with the State Environmental Policy Act, chapter 43.21C RCW and Washington Administrative Code (WAC) 197-11. Such failure constitutes an error of law and misapplication of the law to the Waterfront LID process. As a result, the Waterfront LID and Ordinance 125760 are invalidated and remanded for further processing consistent with the State Environmental Policy Act.

5.8.3 In adopting the Waterfront LID and Ordinance 125760, the City failed to comply with the City of Seattle's State Environmental Policy Act Rules, chapter 25.05 SMC. Such failure constitutes an error of law and misapplication of the law to the Waterfront LID process. As a result, the Waterfront LID and Ordinance 125760 are invalidated and remanded for further processing consistent with the State Environmental Policy Act.

5.8.4 Plaintiffs bring this action under RCW 43.21C.075, which creates an independent "basis for challenging whether governmental action is in compliance with the substantive and procedural provisions" of SEPA.

5.8.5 In addition to direct review under RCW 43.21C.075, Plaintiffs are entitled to a statutory writ of review, also called a writ of certiorari, pursuant to Chapter 7.16 RCW. Plaintiffs will note a hearing on their application for a writ, pursuant to LCR 98.40, in the event that this Court determines that direct review under RCW 43.21C.075 is not available.

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5.8.6 Plaintiffs also seek a declaratory judgment pursuant to Chapter 7.24 RCW.

5.8.7 In the event this Court determines that none of Plaintiffs statutory causes of action are available to review the subject decisions, then Plaintiffs invoke this Court's inherent constitutional jurisdiction to review the subject actions.

5.8.8 In the event the City should proceed with the final assessment process or construction of Waterfront LID Improvements during the pendency of this action, then Plaintiffs are entitled to a temporary restraining order and preliminary and permanent injunctions pursuant to Chapter 7.40 and CR 65 in order to prevent irreparable harm before the adverse environmental impacts, and the impacts of reasonable alternatives, have been properly and adequately identified and analyzed by the decision-makers.

5.9 Appearance of Fairness Doctrine Violation

5.9.1 Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.9.2 The City failed to comply with the Appearance of Fairness Doctrine, RCW Chapter 42.30, City Council Resolution 31602 and its Quasi-Judicial Rules, in undertaking this quasi-judicial decision affecting the Plaintiffs' properties.

5.9.3 The City Council met privately with City staff and other proponents of the Waterfront LID, then failed to recuse themselves from voting, and refused to meet with land owners within the Waterfront LID.

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5.9.4 These private meetings contributed to an effort to achieve, and did achieve, a collective positive decision in support of the eventual Waterfront LID.

5.9.5 The City Council published a public memorandum admitting to numerous ex-parte communications with parties about the Waterfront LID.

5.9.6 As a result of the violations of the Appearance of Fairness Doctrine, the City's adoption of Ordinance 125760 should be invalidated.

5.10 Open Public Meetings Act

5.10.1 Plaintiffs allege and repeat the preceding paragraphs as though fully set forth herein.

5.10.2 A majority of the City Council communicated with each other directly and indirectly in negotiating a reduced Waterfront LID amount, from $200 million to $160 million, prior to voting and failed to comply with the Open Public Meetings Act, RCW Chapter 42.30, damaging Plaintiffs.

5.10.3 A majority of the City Council had knowledge that they were conducting meetings that violated the Open Public Meetings Act.

5.10.4 As a result of these violations, the City's decision to adopt Ordinance 125760 must be invalidated.

VI. PRAYER FOR RELIEF

Plaintiffs therefore seeks the following relief:

A. Declaratory Judgment, declaring, among other things, the Defendant City's actions violated Chapter 35.43 RCW, et seq., Chapter 42.30 RCW, et seq., and/or the Appearance of Fairness Doctrine, and, as a result, the Defendant City's approval of the Waterfront LID, including the adoption of Ordinance 125760, shall be invalidated;

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B. Declaratory Judgment, declaring, among other things, the Defendant City's actions violated Article 1, Section 1 of the Washington State Constitution, and, as a result, the Defendant City's approval of the Waterfront LID, including the adoption of Ordinance 125760, shall be invalidated;

C. Declaratory Judgment, declaring, among other things, the Defendant City's actions violated Article 1, Section 3 of the Washington State Constitution, and, as a result, the Defendant City's approval of the Waterfront LID, including the adoption of Ordinance 125760, shall be invalidated;

D. Declaratory Judgment, declaring, among other things, the Defendant City's actions violated Article 1, Section 4 of the Washington State Constitution, and, as a result, the Defendant City's approval of the Waterfront LID, including the adoption of Ordinance 125760, shall be invalidated;

E. Injunctive Relief enjoining the Defendant City from assessing any amount to the Plaintiffs' properties for the Waterfront LID;

F. Judgment against the Seattle City Council in the form of all relief permitted under RCW 42.30.120;

G. Judgment against the Seattle City Council in the form of all relief permitted under Appearance of Fairness Doctrine; Direct, Indirect, Consequential and Punitive Damages, if and as allowed by law, in an amount to be proven at trial;

H. Order, Declaratory Judgment, and/or Injunctive relief invalidating Ordinances 125760, 125761, and 125762 because the AWPOW FEIS was inadequate, the City Council failed to adequately review environmental impacts during the LID formation process, the City of Seattle violated the State Environmental Policy Act, and remanding to the City of Seattle to conduct and complete the environmental review process prior to forming the Waterfront LID, constructing the projects, or completing the final assessment process;

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I. Costs and attorneys' fees, and prejudgment interest as allowed by law; and

J. Other and further relief as may be deemed just and equitable.

DATED this 4th day of December, 2019.

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By: */s/ Jesse O. Franklin IV*

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