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SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

SHG Garage SPE, et al.

No. 21-2-10100-0 SEA

Appellants,

v.

City of Seattle,

Appellee.

FINDINGS OF FACT AND CONCLUSIONS
OF LAW, AND ORDER GRANTING
RELIEF

This matter came before the Court for oral argument on October 28, 2022. The parties submitted proposed findings on December 9, 2022.

Having heard and considered the oral argument, the briefs filed by the parties prior to the hearing, and the materials in the record from the proceedings below, the Court finds that the City's method of assessment was fundamentally flawed and that the process followed by the City was arbitrary and capricious. Therefore, the assessments related to these litigants is annulled.

This ruling is based on the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT AND CONCLUSIONS
OF LAW – 1

TABLE OF CONTENTS

I.	FINDINGS OF FACT	5
A.	The Parties.....	5
B.	Procedural History	7
1.	Notice of Assessment	7
2.	Initial Hearing Examiner Proceedings	8
3.	Remanded Proceedings Before the Examiner for Five of Appellants' Properties 10	
4.	Proceedings Before City Council	11
5.	Proceedings Before This Court	12
C.	The Waterfront Local Improvement District	14
D.	Appellants' Properties	19
E.	The City's Method of Assessment.....	20
1.	The 2019 Study estimated property values 5+ years before completion of improvements and 1 year and 8 months prior to the final assessment and did not discount for risks.....	22
2.	The 2019 Study did not properly document or segregate what increase in property value would be due to the WSDOT Improvements.	29
3.	This Court finds that the 2019 Study does not demonstrate reasonable compliance with appraisal standards.	33
4.	This Court finds the special benefit estimates for Appellants' properties were not supported by property-specific data and misapplied the Crompton study.	36
F.	Appellants' Expert and Lay Testimony	41
G.	The City's Expert and Lay Testimony	43
H.	Property-Specific Findings	45
	Harbor Steps	47
	Helios Apartments	50
	The Hedreen Hotels	52
	Grand Hyatt Parking and Retail (7th & Pine LLC)	58
	Lot B	60
	Seattle Waterfront Marriott.....	62
	SHG Hotel	65
	SHG Garage.....	67
	SHG Retail.....	68
	RRRR Investments	70

1	Sound Vista Properties	72
2	United Way	73
3	Victor and Mary Moses	75
4		
5	II. CONCLUSIONS OF LAW	78
6	A. Standard of Review	78
7		
8	B. The City’s Method of Assessment Was Fundamentally Flawed.	82
9	1. It was fundamentally flawed and speculative to predict minor property value	
10	increases five years into the future, where both current and future valuations were	
11	complicated by the Global COVID Pandemic. Rejecting evidence of the impact of the	
12	Global Pandemic and refusing to consider its effect on valuations was arbitrary and	
13	capricious.	82
14		
15	2. The findings of the Hearing Examiner were fundamentally flawed to omit	
16	analysis of how WSDOT Improvements impacted property values.	86
17		
18	3. The assessments were fundamentally flawed to rely upon an appraisal that does	
19	not comply with professional standards.	88
20		
21	4. The assessments were fundamentally flawed to apply a 0.4%-3.2% percentage	
22	increase to each of Appellants’ properties without tying this increase to any property-	
23	specific data.	90
24	C. The City’s Process For Assessing Appellants’ Properties Was Arbitrary and	
25	Capricious.	92
26	1. The City instructed its appraiser to hypothesize values far in advance of	
27	completion of the LID Improvements and to treat all improvements as continuous.	92
28		
29	2. The Hearing Examiner misapplied the presumption in favor of LID assessments	
30	to disregard credible testimony from Appellants’ witnesses.	93
31		
32	3. City Council, sitting as a Board of Equalization, failed to independently review	
33	the Examiner’s recommendations.	99
34	D. Property-Specific Conclusions.	100
35	The Harbor Steps	100
36	Helios Apartments	101
37	The Hedreen Hotels	102
38	Grand Hyatt Parking and Retail	103
39	Lot B	104
40	Seattle Waterfront Marriott	105
41	SHG Hotel	106
42	SHG Garage	108
43	SHG Retail	109
44		
45	RRRR Investments	110
46		
47		

1	Sound Vista Properties	111
2	United Way	112
3	Victor and Mary Moses	113
4		
5	III. ORDER.....	113
6	The Harbor Steps	114
7	Helios Apartments	114
8	The Hedreen Hotels	114
9	Grand Hyatt Parking and Retail.....	114
10	Lot B	114
11	Seattle Waterfront Marriott.....	115
12	SHG Hotel	115
13	SHG Garage.....	115
14	SHG Retail.....	115
15	RRRR Investments	115
16	Sound Vista Properties	116
17	United Way.....	116
18	Victor and Mary Moses	116
19		
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I. FINDINGS OF FACT

A. The Parties

1. Appellants are owners of certain real property in the City of Seattle subject to the Local Improvement District assessments as described below. Appellants Victor and Mary Moses are represented by Ojala Law, Inc., PS. All other Appellants are represented by Perkins Coie LLP.

2. Appellee City of Seattle is a municipal corporation (the “City”). The City is represented by K&L Gates LLP and the Seattle City Attorney’s Office.

3. The specific properties at issue owned by Appellants are located within the Waterfront Local Improvement District No. 6751 (the “Waterfront LID”). The following is a table listing the name of each Appellant, the relevant tax parcel number, a short description of the property, and the amount of the City’s proposed final LID assessment.

	Property Owner	Parcel No.	Property	LID Assessment
	Equity Residential			
1	EQR-Harbor Steps, LLC	1976200070	Harbor Steps NW	\$839,675
2	EQR-Harbor Steps, LLC	1976200075	Harbor Steps NE	\$1,376,079
3	EQR-Harbor Steps, LLC	7666202465	Harbor Steps SW	\$1,289,878
4	EQR-Harbor Steps, LLC	1976200076	Harbor Steps SE	\$1,767,509
5	EQR-Second & Pine, LLC	7683890010	Helios Apartments	\$2,244,356
	Hedreen Hotels			
6	Hedreen Hotel LLC	6792120010 & 6195000030	Grand Hyatt Seattle	\$1,306,335
7	Hedreen LLC	2285130010	Hyatt at Olive 8	\$683,338
8	Elliott NE LLC	660000708	Hyatt Regency	\$1,205,636

9	Madison Hotel LLC	942000430	Renaissance Hotel	\$420,425
10	7th & Pine LLC	6792120020	Grand Hyatt Parking and Retail	\$549,334
11	Lot B LLC	660000740	Surface parking lot next to Hyatt Regency	\$73,663
Waterfront Marriott				
12	Ashford Seattle Waterfront LP	7666202345	Seattle Waterfront Marriott	\$2,106,827
Seattle Hotel Group				
13	SHG Hotel SPE, LLC	6094670030	Four Seasons Hotel	\$1,676,215
14	SHG Garage SPE	6094670010	Garage in Four Seasons building	\$132,436
15	SHG Retail SPE	6094670020	Retail in Four Seasons building	\$31,346
Residential Condos				
16	RRRR Investments, LLC	2538831460	Unit 3800 at 1521 2nd Ave.	\$41,245
17	RRRR Investments, LLC	2538831480	Unit 3802 at 1521 2nd Ave.	\$44,084
18	Sound Vista Properties, LLC	6094680050	Condo in Four Seasons building	\$122,412
Nonprofit				
19	United Way of King County	939000240	United Way Building	\$81,928
Moses Appellants				
20	Victor and Mary Moses	2538830850	Unit 2304 at 1521 2nd Ave.	\$25,519

1 **B. Procedural History**

2 **1. Notice of Assessment**

3
4 4. On January 28, 2019, the Seattle City Council (“City Council”) passed
5 Ordinance 125760 forming the Waterfront LID to finance a portion of the Seattle Central
6 Waterfront Improvement Program, discussed in more detail below.
7
8

9
10 5. On December 30, 2019, notices of assessment were mailed to property
11 owners within the boundaries of the Waterfront LID, whose names appeared on the
12 proposed final assessment roll. Appellants all received notices which provided their
13 proposed assessment amount and stated that any objections thereto must be filed by
14 February 4, 2020.
15
16

17
18 6. The notices explained that “the Council, a committee thereof, the Hearing
19 Examiner or other designated officer, will sit as a board of equalization for the purpose of
20 considering objections duly filed, together with all information and evidence in support of
21 those objections, and for the purpose of considering the Waterfront LID assessment roll . . .
22 Property owners who made timely objections to their assessments in the manner required by
23 law will have the opportunity to appeal the Hearing Examiner’s recommendations.”
24
25

26 7. On January 7, 2020, the City made available the 237-page Summary of Final
27 Special Benefit/Proportionate Assessment Study for Waterfront Seattle Project Local
28 Improvement District along with a 214-page Addenda, dated October 1, 2019 (“2019
29 Study”). (LID_000180 - 000416 and LID_000417 - 000630). The 2019 Study was the basis
30 for the City’s proposed LID assessments.
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1 **2. Initial Hearing Examiner Proceedings**

2 8. Approximately 430 property owners including the Appellants submitted
3 timely objections. City Council designated the City of Seattle Office of Hearing Examiner
4 (“Examiner”) to conduct the hearings and provide a recommendation to City Council.
5
6

7 9. The Hearing Examiner noted “[w]here, as here, the City Council has
8 appointed a hearing examiner to oversee the hearing, the hearing examiner ‘sits as a board of
9 equalization’ to consider the objections.” See, Final Findings and Recommendation of the
10 Hearing Examiner for the City of Seattle (“Examiner’s Final Recommendation”) at 1 (citing
11 SMC 20.04.070(A); RCW 35.55.070, .080) (LID_000847).
12
13
14
15
16
17

18 10. The City sent notices of assessment on December 30, 2019.
19

20 11. However, on January, 20, 2020, the first confirmed U.S. COVID-19 case
21 was identified in Snohomish County, WA. This turned out to be the start of the Global
22 COVID-19 Pandemic that would ultimately result in dramatic changes to every aspect of
23 human life on the planet.
24
25
26
27

28 12. The Examiner commenced the appeal hearing on February 4, 2020 in person
29 and began by allocating time for hearing the objections. At this hearing, Perkins Appellants
30 moved for a continuance for additional time to review the 2019 Study.
31
32
33

34 13. The Examiner denied the motion. Appellants also moved for discovery,
35 including depositions. The Examiner allowed one deposition of Mr. Robert Macaulay, who
36 was the City’s lead appraiser in preparing the 2019 Study.
37
38
39

40 14. Appellants deposed Mr. Macaulay on February 27, 2020.
41

42 15. Perkins Appellants presented their cases-in-chief before the Examiner over
43 seven days on March 3 (LID_001064 - LID_001299), March 5 (LID_001300 -
44 LID_001547), March 11 (LID_001604 - LID_001846), March 12 (LID_001847 -
45
46
47

1 LID_002076), April 13 (LID_002125 - LID_002357), April 14 (LID_002358 -
2
3 LID_002497), and April 16, 2020 (LID_002498 - LID_002698), with the opportunity for
4
5 one trailing declaration on April 21, 2020.

6
7 16. The first U.S. COVID death, in Snohomish County, Washington was
8
9 identified in February 2020. The Puget Sound Region, including King County was an early
10
11 epicenter of the Global Pandemic. Local and state-wide travel and public access restrictions
12
13 were imposed beginning in March 2020.

14
15 17. As a result, the hearings held in this matter were either “hybrid” or virtual.
16
17 The City was afforded an opportunity to cross-examine all of Appellants’ live witnesses
18
19 either in person or through remote simultaneous transmission.

20
21 18. The hearings also included a declaration process. This process allowed
22
23 Appellants to submit testimony via declaration. The City had the opportunity to file
24
25 counter-declarations in lieu of cross-examination.

26
27 19. Appellants Victor and Mary Moses (“Moses”) presented their case-in-chief
28
29 before the Hearing Examiner on March 10, 2020 and March 12, 2020.

30
31 20. In April 2020, the Examiner held a scheduling conference to determine how
32
33 many objectors would seek to cross-examine City witnesses. Twenty-nine objectors,
34
35 including Appellants, were permitted to coordinate their cross examination of City witnesses
36
37 over three days.

38
39 21. On June 18 and 19, 2020, the City presented its case-in-chief.

40
41 22. On June 23, 25 and 26, 2020, objectors cross-examined City witnesses.

42
43 23. The City also submitted declarations in lieu of live testimony. Because those
44
45 declarations were not subject to cross-examination, objectors who qualified for cross-
46
47

1 examination were permitted to file closing briefs and responsive declarations related only to
2 matters raised in the City's case.
3

4 24. The City was then given one final opportunity to file reply briefs and
5 declarations. *See generally*, LID_009072-LID_011009.
6
7

8 25. On September 8, 2020, the Examiner issued his initial Findings and
9 Recommendations ("Initial Recommendation"). *See* LID_000724 - LID_000846. The Initial
10 Recommendation recommended limited remands, including of five of Perkins Appellants'
11 properties, for further analysis—the Grand Hyatt, Hyatt at Olive 8, Hyatt Regency,
12 Renaissance Hotel and United Way. The Initial Recommendation otherwise recommended
13 rejecting the remaining fifteen of Appellants' appeals.
14
15

16 26. RCW 35.44.070 and SMC 20.04.090 provide for any appeals appeals from
17 any recommendation of the Hearing Examiner on the proposed final assessment roll for
18 local improvement districts to be heard by the City Council. Appellants each timely filed an
19 appeal of the Initial Recommendation to the City Council on September 22, 2020. *See*
20 *generally* LID_013983 - LID_015239.
21
22

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31 **3. Remanded Proceedings Before the Examiner for Five of**
32 **Appellants' Properties**
33

34 27. On November 9, 2020, City Council passed Resolution 31979 remanding
35 Appellants' cases (among others) to the Examiner.
36

37 28. Appellants and the City filed supplemental declarations and briefing on
38 issues identified for remand. The record closed on January 15, 2021.
39

40 29. The Examiner issued his Final Recommendations on January 29, 2021,
41 accepting all of Mr. Macaulay's remand conclusions. (LID_000847 - 000972).
42
43
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1 30. City Council’s Resolution 31979 authorized all Appellants to file amended
2
3 appeals to City Council, which each Appellant did on February 16, 2021. *See generally*
4
5 LID_013983 - LID_015239.

6
7 **4. Proceedings Before City Council**

8
9 31. City Council Rules for Quasi-Judicial Proceedings (“Rules”)¹ subsection
10
11 IV.A allows the City Council to delegate a committee to “review the merits of the action and
12
13 to make a recommendation to the full Council.” The Rules require the Committee to set a
14
15 time and place for hearing “appeals of an individual’s final assessment for a Local
16
17 Improvement District” within 15 days of the filing of the appeal with the City Clerk. Rule
18
19 VI.A.

20
21 32. City Council delegated the task of hearing appeals from the Examiner’s Final
22
23 Recommendation to the Public Assets and Native Communities Committee (the
24
25 “Committee”). On March 2 and April 6, 2021, the Committee held a 15- and 30- minute
26
27 meeting, respectively.²

28
29 33. During these meetings, the Committee did not mention any individual appeal.

30
31 34. At the April 6 meeting, Councilmember Herbold expressed concern about the
32
33 process, asking: “What makes this a hearing, if we’re not hearing anything?” 4/6/21 Hrg. Tr.
34
35 at 93:1-2 (LID_013348).

36
37 35. Staff Member Eric McConaghy asserted that the Council had “made the choice
38
39 to hire a Hearing Examiner instead of [having the] Committee and City Council to listen to all
40
41
42
43
44

45 ¹ See, [https://www.seattle.gov/documents/Departments/Council/Reports/quasi-judicial-](https://www.seattle.gov/documents/Departments/Council/Reports/quasi-judicial-rules.pdf)
46 [rules.pdf](https://www.seattle.gov/documents/Departments/Council/Reports/quasi-judicial-rules.pdf).

47 ² The hearings were held on March 2, 2021, and April 6, 2021. .

1 these appeals” and this proceeding before the Committee was simply to recognize those
2 appeals in a public way. *Id.* at 93:6-13, 94:19-25 (LID_013349, LID_013348).

3
4 36. Before voting, Councilmember Herbold noted that she was not aware that the
5 clerk file contained “materials associated with appeals” and was not aware that the
6 Committee would be acting on anything at the April 6 meeting. *Id.* at 95:1-20
7 (LID_013350); 99:7-15 (LID_013354).

8
9 37. There were no further questions by the Councilmembers. The Committee
10 voted to recommend that the full City Council deny all the appeals.

11
12 38. Only after this vote were the Committee members emailed a proposed draft
13 for the City Council to consider as its final findings, conclusions and decisions. *Id.* at 102:8-
14 106:5 (LID_013357 - LID_013361). The Committee members did not have the opportunity
15 to review these proposed findings, conclusions and decisions prior to their meeting or their
16 vote. It was explained to the Committee members that, if adopted by the City Council, these
17 proposed findings would be the final decision of City Council on all the LID appeals.

18
19 39. The Committee voted to approve the proposed final findings. *Id.* at 109:2-
20 110:2 (LID_013364 - LID_013365).

21
22 40. On June 14, 2021, the full City Council passed Ordinance 126374,
23 confirming the final LID assessment roll and adopting the Examiner’s Final
24 Recommendations, which rejected all of Appellants’ appeals. *See* LID_000041 -
25 LID_000179.

26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 **5. Proceedings Before This Court**

42 41. Appellants timely appealed City Council’s decision to this Court by filing
43 twenty separate appeals, which were assigned to different King County Superior Court
44 judges.
45
46
47

1 42. On January 21, 2022, the King County Superior Court consolidated the
2
3 appeals into the above-captioned case. (Sub 13)
4

5 43. On April 7, 2022, the Court held a status conference. Following that
6
7 conference, the Court issued an order that set the date of oral argument, deadlines for filing
8
9 the certified transcript(s), briefing, and oral argument. (Sub 16) The order allowed
10
11 Appellants to file a single consolidated brief for common issues raised in their appeals, and
12
13 shorter property-specific briefs for each of the properties. The City's responses were also
14
15 divided among common issues and property-specific issues, as were Appellants' reply
16
17 briefs. The Court issued a revised briefing schedule on June 17, 2022 to allow Appellants
18
19 time to supplement the certified transcript after omissions and errors were identified.
20

21 44. Appellant Victor C. Moses and Mary K. Moses, who were not represented by
22
23 Perkins Coie, LLP, were provided additional word limits for their property-specific briefs.
24

25 45. Appellants filed opening briefs on July 1, 2022. (Sub 18, 20, 22, 24, 26, 28,
26
27 30, 32, 34, 36, 38, 40, 42 & 43).
28

29 46. The City filed response briefs on August 30, 2022. (Sub 47, 48, 49, 50, 51,
30
31 52, 53, 54, 55, 56, 57, 58, & 59).
32

33 47. Appellants filed reply briefs on September 29, 2022. (Sub 63, 64, 65, 66, 67,
34
35 68, 69, 70, 71, 72, 73, 74, & 75).
36

37 48. This Court held oral argument on October 28, 2022, providing Appellants
38
39 and the City each 45 minutes for common issues and 5 minutes of oral argument for each
40
41 property. (See Sub 61). At the start of the hearing, the Court granted Appellant Moses'
42
43 uncontested request for 15 minutes for his property-specific oral argument. The hearing
44
45 lasted for approximately 5 hours and 45 minutes, with recesses.
46
47

1 49. Following the hearing, the Court allowed the parties additional time to submit
2
3 proposed findings of fact and conclusions of law. After discussion with the parties, the
4
5 Court set the final submission date of December 9, 2022.

6 **C. The Waterfront Local Improvement District**
7

8 50. At issue in these consolidated cases is the City’s method and process of
9
10 assessing Appellants for a share of costs associated with redeveloping the Seattle waterfront.
11

12 51. The Alaskan Way Viaduct (“Viaduct”) was an elevated section of State
13
14 Route 99 that functionally separated most of downtown Seattle from the waterfront. After
15
16 wear and tear from daily use and damage from earthquakes, the Washington Department of
17
18 Transportation (“WSDOT”) decided to tear down the Viaduct for safety reasons and restore
19
20 the roadway beneath—Alaskan Way—to baseline road standards.
21

22 52. In 2012, the Seattle City Council approved a Waterfront Strategic Plan (the
23
24 “Plan”) to improve 26 blocks along the waterfront. The Plan replaced WSDOT’s proposal to
25
26 restore Alaskan Way after demolishing the Viaduct, and the City decided to use a LID to
27
28 fund some of the costs associated with the Plan’s enhancements.
29

30 53. LIDs allow cities to assess property owners who realize unique property
31
32 value increases—*i.e.*, special benefits—that are directly attributable to a public improvement
33
34 and not shared by the general public. For example, LIDs fund infrastructure intended to
35
36 urbanize a specific area, such as road, water and sewer extensions, that make properties in
37
38 the area more valuable.
39

40 54. The “LID-funded improvements” at issue are individually referred to as:
41

- 42 a. The Promenade;
43
44 b. Overlook Walk;
45
46 c. Pioneer Square Street Improvements;
47

- d. Union Street Pedestrian Connection;
- e. Pike/Pine Streetscape Improvements; and,
- f. Pier 58

55. These LID Improvements are part of the City’s plan to redevelop Seattle’s waterfront following WSDOT’s demolition of the SR 99 Viaduct. The LID Improvements are projects that go beyond WSDOT’s baseline road standards to enhance the Seattle waterfront and connectivity between downtown and the waterfront.

56. The City anticipated the LID Improvements would be complete in 2024.

57. To construct the City’s LID boundary and special assessment decisions, the City hired Mr. Robert Macaulay at ABS Valuation. Mr. Macaulay began by preparing a preliminary LID feasibility study in August 2017 (“Feasibility Study”).

58. The Feasibility Study estimated that the range of special benefit due to the LID improvements would be between \$300 million and \$420 million. *See* LID_010022.

59. In May 2018, Mr. Macaulay prepared a preliminary special benefit assessment study (“Preliminary Study”) to assist the City in deciding whether to form the LID and proposing LID boundaries. The Preliminary Study estimated the total special benefit within the then-proposed LID boundary to be approximately \$414 million. LID_010097.

60. In June 2018, based on these studies, the Seattle City Council passed a Resolution of Intent to form the Waterfront LID, the boundaries of which encompass almost all of downtown Seattle from T-Mobile Park to Denny Way and from Elliott Bay to I-5. See Figure 1.

FIGURE 1

Aerial/LID Boundary Map



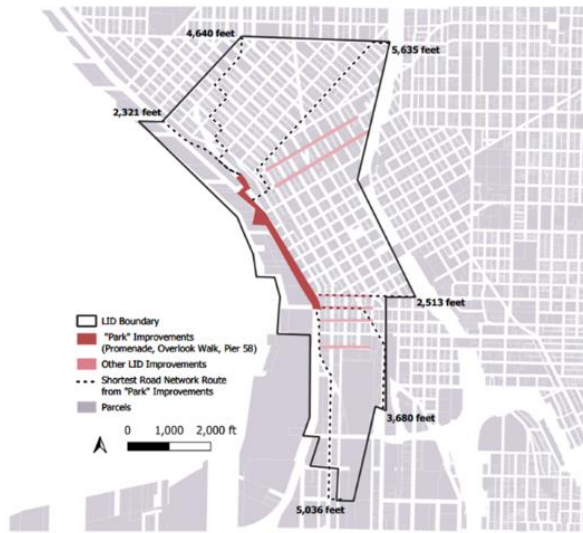
19-0181 Waterfront Seattle LID Final Special Benefits/Proportionate Assessment Study - © 2019 ABS Valuation Page 1

61. The Waterfront LID has unique features.

62. First, it encompasses 6,238 individual tax parcels, made up of many property types: residential/commercial condominium units, office buildings, hotels, retail spaces, historic structures, and special purpose properties (including sports stadiums, an art museum, a performance hall, a convention center, and a ferry terminal).

63. Second, the proposed LID Improvements are not contiguous. Mr. Macaulay testified that Pier 58, the Promenade and Overlook Walk were the “park-like components ... considered” for purposes of drawing the LID boundary. 2/27/2020 Depo. at 179:18-180:2 (LID_017105-17106). The map below (Figure 2) shows those three components in darker pink along the waterfront. And in lighter pink are the Union Street, Pioneer Square and Pike/Pine Improvements. *See* Kersten Decl., Ex. G (LID_008389).

FIGURE 2



64. Third, the LID is being used to finance improvements significantly before their scheduled completion (now 2025).

65. Finally, the City's June 2021 final assessments were based on property value estimates from October 2019.

66. Following the City Council's vote to form the LID, Mr. Macaulay prepared the Waterfront Seattle LID Final Special Benefit/Proportionate Assessment Study, with a date of valuation of October 1, 2019 ("2019 Study").

67. The 2019 Study was prepared to "assist the City in estimating special benefit (increase in market value) to affected property resulting from the LID-funded improvements within the Waterfront Seattle Project." See 2019 Study at 1 (LID_000181).

68. The 2019 Study concluded that the total special benefit to all properties in the LID was \$447,908,000.

1 69. This 2019 Study did not analyze the individual value contributions of each
2 proposed LID Improvement.

3
4 70. The costs and expense of each LID component was not ascertained separately
5 for purposes of assessing property owners.

6
7 71. The assessment amounts were not computed based on the cost and expense of
8 each component.

9
10 72. Mr. Macaulay testified that he was asked to look at all of the LID
11 Improvements as a whole. 6/23/2020 Hrg. Tr. at 30:3-8) (LID_003151).

12
13 73. Mr. Macaulay acknowledged that the six LID Improvements were not
14 actually a continuous project. He stated that he viewed them together because the City staff
15 asked him to do so. See 6/25/2020 Hrg. Tr. at 27:18-28:5 (LID_003432 - LID_003433).

16
17 74. The record does not contain a finding from the City Council the properties
18 within the global LID would benefit from the totality of the LID Improvements as a whole.
19 Nor does the record contain a factual record from which such a conclusion could be
20 supported.

21 75. Mr. Macaulay applied an assessment capitalization ratio to each assessment.

22 76. The City Council had previously capped the amount to be assessed at \$160
23 million, plus \$15 million in administrative costs, for a total of \$175 million assessment.

24 77. In determining the final proposed LID assessments for the individual
25 properties, Mr. Macaulay did not conduct an individualized analysis. Rather, he divided the
26 \$175,000,000 assessment cap by the estimated total special benefit of \$447,908,000 (based
27 on the 2019 Study) to reach an assessment capitalization ratio of 39.2%.

28 78. Mr. Macaulay then multiplied his estimated special benefit for each property
29 by 39.2% to arrive at final proposed LID assessments. *See* 2019 Study at 9 (LID_000189).

D. Appellants' Properties

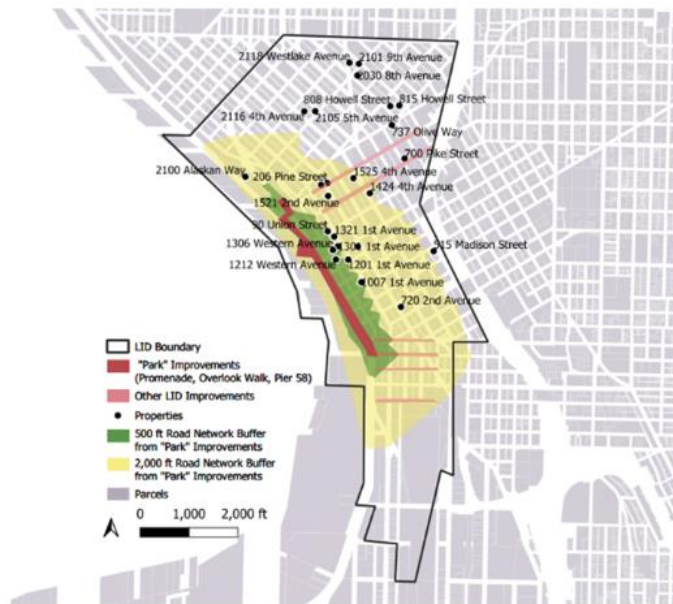
79. Appellants' properties are all within the Waterfront LID boundary, and all were assessed a portion of the cost of the LID Improvements based on the valuations in the 2019 Study.

80. Appellants' properties include 6 hotels, 5 apartment complexes, an owner-occupied charity office complex, 1 parking/retail unit, 4 individual condos, and 1 parking lot.

1
2
3
4 81. Appellants' properties are generally not appurtenant to the proposed "park-
5 like" improvements. See, Figure 3. Most are more than 500 feet away and seven are more
6 than 2,000 feet away. Perkins' Appellants' GIS expert, Dr. Ellen Kersten, provided the map
7 below showing the location of the properties and LID Improvements. See Kersten Decl., Ex.
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11 E (LID_008385).³
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FIGURE 3



E. The City's Method of Assessment

82. The City Council based Appellants' LID assessments on property value estimates in the 2019 Study and Mr. Macaulay's amended valuations in the remand proceeding in December 2020-January 2021.

³ Map was edited by the parties to remove properties who did not pursue an appeal to this Court.

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83. Appellants' challenged the methodology used in the 2019 Study on four basis:
- a. First, Appellants contend that the property values were estimated significantly in advance of the anticipated completion and did not take into account the economic impact of the Covid Pandemic. The 2019 Study estimated property values over five years in advance of anticipated completion of the LID Improvements and one year and eight months prior to the City's final assessments (with an intervening pandemic). The LID assessments were not discounted to account for economic, permitting, construction and other risks associated with potential delayed delivery of those Improvements. Rather, the assessments relied on the hypothesis that the planned Improvements were in place and had increased the value of Appellants' properties as of October 2019. Obviously, they were not, and had not.
 - b. Second, Appellants assert that the 2019 Study did not estimate actual market values for any of the LID properties. Instead, the Study's "Before" values assumed that WSDOT Improvements were complete (including removal of the Viaduct and restoration of Alaskan Way). However, the 2019 Study did not document or estimate increases in property values due to the WSDOT Improvements.
 - c. Third, Appellants argue that the 2019 Study did not demonstrate reasonable compliance with appraisal standards. Appellants contend that the conclusions of the 2019 Study cannot be independently tested or evaluated.

1 d. Fourth, Appellants assert that the special benefit estimates for
2 Appellants' properties are too small to be reasonably estimated, are
3 not substantial in a market sense, are incapable of being measured,
4 particularly so far in the future, and are not supported by property-
5 specific data.
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11 **1. The 2019 Study estimated property values 5+ years before**
12 **completion of improvements and 1 year and 8 months prior to the final**
13 **assessment and did not discount for risks.**
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15 84. Special benefit estimates are typically estimated after, or much closer to, the
16 improvement completion date, when property value increases attributable to the
17 improvement are more clearly identifiable. For example, the LOCAL AND ROAD
18 IMPROVEMENT DISTRICTS MANUAL FOR WASHINGTON STATE, 6th Ed. (Oct. 2009) provides
19 that market value is typically estimated "as of the date of the final assessment roll hearing."
20 (LID_017363). As another reference point, under Seattle's municipal code, "[u]nless
21 otherwise determined by ordinance or by City Council resolution, the proposed final
22 assessment roll shall be filed within ninety (90) days following the completion and
23 acceptance of the improvement." SMC 20.04.070B.1.
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32 85. Although these practices do not represent bright line rules, they are indicative
33 of the fact that an attempt to calculate a special benefit too far in the future is inappropriate.
34 Even the City acknowledged that there is a point at which it is too speculative from a
35 practical standpoint to estimate potential special benefits from future improvements. *See*
36 10/28/2020 Hrg. Tr. at 158:18-160:15.
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42 86. Of the over one hundred LIDs Mr. Macaulay has worked on prior to this
43 project, he could not recall any other LID where the proposed assessment roll was finalized
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1 five years in advance of the anticipated project completion. *See* 6/18/2020 Hrg. Tr. at
2 108:14-16 (LID_002807); 6/23/2020 Hrg. Tr. at 16:1-22 (LID_003137).
3

4 87. Other than in this case, Mr. Macaulay could not recall ever recommending
5 final special assessments based on designs less than 30 percent,. *Id.* at 17:22-18:2
6 (LID_003138 - 003139).
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10 88. Here, the 2019 Study purported to predict hypothetical Before and After
11 property values 622 days (almost two years) before the City finalized the assessments and
12 1,825 days (5 years) before the then-estimated completion of improvements.
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16 89. Adopting a date of valuation so far in advance of the final assessments and
17 completion of the improvements, understandably, complicated Mr. Macaulay's analysis. It
18 required the use of hypothetical conditions and extraordinary assumptions. In an appraisal,
19 an extraordinary assumption is "that which, if found to be false, could alter the opinion of
20 market value." *See* 2019 Study at 28 (LID_000313) A hypothetical condition is "that which
21 is contrary to what exists but is supposed for purposes of analysis." *Id.*
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28 90. The 2019 Study assumed that downtown real estate values would continue to
29 increase from 2019 to 2024. Thus, value conclusions for Appellants' properties reflected an
30 assumption that "the new waterfront amenities and improved waterfront access would
31 enhance trends already in evidence in the various downtown Seattle real estate markets." *See*
32 2019 Study at 7 (LID_000187).
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38 91. Of course, it is undisputed that COVID intervened between the 2019 Study
39 and City Council's imposition of final assessments in June 2021 and created a disruption in
40 the real estate market trends in Seattle.
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44 92. Appellants introduced uncontradicted evidence that COVID significantly
45 negatively impacted their respective businesses and property values during the assessment
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1 period. As one example, John Gordon testified regarding strong evidence that the value of
2 hotels as of March 2020 was approximately 10-15% lower when compared with January
3 2020 or October 2019 values. *See* April 21, 2020 John Gordon Decl. at ¶ 9 (LID_019055).
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6 93. The City did not rebut this evidence.
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8 94. Mr. Macaulay acknowledged COVID's impact on the market as one example
9 of why valuing the future delivery of improvements is inherently uncertain. Macaulay
10 testified: "Well, all I'm saying is that I can't read the future. I mean, when I was doing my
11 analysis in October 2019, who would have thought that this COVID issue would happen?"
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13 6/23/2020 Hrg. Tr. at 79:18-80:8 (LID_003201).
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18 95. By the time City Council finalized the LID assessments in June 2021,
19 Appellants had presented ample, uncontested evidence of the drastic impacts to businesses
20 (and property values) downtown due to COVID.
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24 96. The City acknowledged that extreme events that impact property values—for
25 example an intervening earthquake—would have required the Examiner to require
26 reevaluation of the City's proposed assessments. *See* 10/28/2022 Hrg. Tr. at 71:12-16.
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29 97. Nevertheless, despite the potentially speculative nature the ABS valuation
30 created by the very early determination of the special benefit, the City and its Examiner
31 failed to recognize that a global economic event such as COVID would require an update to
32 the anticipated and projected property value estimates.
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38 98. In fact, the Examiner determined that COVID was irrelevant because the
39 2019 Study's date of valuation predated the pandemic.
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42 "The COVID-19 pandemic does not have any relevancy with concern to the issues
43 addressed in the special assessment hearing, which is to determine if the City
44 committed an error in the calculation of special assessments or valuation. The
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1 pandemic has no impact on the ABS appraisals in the Special Benefit Study because
2 the date of valuation, October 1, 2019, predated the virus and appraisers are not
3 required to predict unforeseeable events as part of their value analyses.”

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6 Examiner’s Findings and Recommendation at 124 (LID_000970).

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9 99. The Examiner’s further stated that “[t]he question of providing any relief to
10 property owners on the basis of impacts from COVID-19 is a political question, not a legal
11 issue on which the Hearing Examiner should provide a recommendation.” *Id.* at 124
12 (LID_000970).

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16 100. By contrast, because of COVID’s unique impact on market conditions, the
17 Appraisal Institute issued updated guidelines requiring appraisers to analyze the impact of
18 COVID-19 on values, stating that “it is not appropriate to include a disclaimer or
19 extraordinary assumption that suggests the appraiser is not taking responsibility for analysis
20 of market conditions.” *See* LID_016793 - LID_016795.

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26 101. Another unique aspect of the 2019 Study was the hypothetical condition that
27 all projects in the Before and After scenarios were complete as of October 1, 2019, even
28 though WSDOT’s improvements (other than Viaduct removal) would never be built, and the
29 LID Improvements were then 5 years from completion. By assuming all were complete, Mr.
30 Macaulay also made a number of extraordinary assumptions relating specifically to the
31 Before and After conditions that have proven false: e.g., that all necessary project permits
32 would be issued without any required changes, mitigation, or delay; that none of the project
33 designs would materially change; that budget issues would not affect the timeline or delivery
34 of the LID Improvements; and that there were not going to be any major disruptions in the
35 micro- or macro-economy. *See* 6/23/2020 Hrg. Tr. at 64:13-65:12 (LID_003185 -
36 LID_003186); 67:10-16 (LID_003188); 68:11-18 (LID_003189).

1 102. It is undisputed that any changes to extraordinary assumptions in the 2019
2 Study could alter Mr. Macaulay's opinion of value. When asked whether a fundamental
3 assumption is that "there aren't going to be any major economic disruptions that might
4 affect the funding or schedule for the improvements," he responded: "That would be correct.
5 We would assume that the project is done both – in the after situation, the project would be
6 done." 6/23/2020 Hrg. Tr. at 68:11-18 (LID_003189). In a follow up question, he was asked
7 "if any of these assumptions prove incorrect, would your opinion of market value need to be
8 revised[?]" *Id.* He responded: "Yes." *Id.*

9 103. None of WSDOT's Before improvements were complete as of October,
10 2019, and apart from Viaduct demolition, most were no longer planned. None of the LID
11 Improvements were near complete as of October 2019 either. Aside from the Promenade,
12 designs and specifications for the LID Improvements were incomplete when Mr. Macaulay
13 finished the 2019 Study—most at 30% design or less. *See* 2019 Study at 2 (*See*
14 LID_000182). Discretionary permitting and environmental review also were not complete
15 for any of the LID Improvements and, for the Pier 58, Pike/Pine, and the Pioneer Square
16 components, they had not even started.

17 104. Some events having the potential to impact timeline, design, and budget in
18 fact occurred.
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1 105. In September 2021, Pier 58 (future site of the Waterfront Park) collapsed, and
2 the City was required to use emergency contracting protocols to remove the pier
3
4 immediately. Concrete strikes between December 2021 through April 2022 delayed delivery
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6 of the LID Improvements from 2024 to 2025.⁴
7

8 106. Appellants contended that it was also likely, if not then known, that supply
9 chain issues, inflation and other continuing economic disruptions not present in 2019 would
10 drive up costs associated with constructing the LID Improvements and create further delay
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12 and other risks to the City’s delivery of special benefits, for which it has assessed
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14 Appellants.
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17 107. Mr. Macaulay acknowledged that there is no way to accurately predict the
18 impact of improvements on property values this many years into the future. He testified: “I
19 just don’t know what the market value would be as of the date the project would be finally
20 constructed. There could be a lot of elements in the market that did occur between now and
21 then that impact value.” 6/25/2020 Hrg. Tr. at 212:9-13 (LID_003617).
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28 108. The Examiner nevertheless rejected the argument that COVID and other
29 market forces could undermine assumptions in the 2019 Study, reasoning that “Objectors
30 offered no evidence that any potential changes would, in fact, alter that amount of special
31 benefit provided by the Improvements” and “the assessments are valid so long as the LID’s
32 fundamental purpose is accomplished.” Examiner’s Final Recommendations at 115
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39 (LID_000961).
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44 ⁴ See Waterfront Seattle Construction Schedule, *available at*
45 <https://waterfrontseattle.org/construction/construction-overview> (“construction was delayed into
46 2025 due to COVID-19 impacts and a lack of concrete delivery availability between December 2021
47 and April 2022”).

1 109. It is undisputed that one way to account for development risks and the time
2 value of money would have been to discount the estimated special benefit attributable to the
3 forthcoming LID Improvements to account for those factors. Appellants’ provided evidence
4 from an MAI appraiser, Mr. Anthony Gibbons, using standard discounting techniques and
5 the PricewaterhouseCoopers Korpacz report for 4th Quarter 2019 (the date of Mr.
6 Macaulay’s analysis).
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12 110. Under this analysis, the City’s anticipated \$447,908.000 special benefit
13 estimate (using pre-COVID numbers and assuming a 2024 completion date) would have
14 been just 34% of the total in the 2019 Study. Gibbons Decl., ¶ 13, 16 (LID_005601 -
15 LID_005602) (“Appraisers routinely consider the impact of future conditions [through]
16 discounted cash flow analysis.”); Gibbons Decl., Ex. A (LID_005607); *see also id.*,
17 3/11/2020 (A. Gibbons) Hrg. Tr.- at 197:21-198:3 (LID_001801 - LID_001802). The total
18 amount after discounting to 34% would have been less than the City’s total \$175,000,000
19 assessment.
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28 111. Appellants’ proffered evidence with respect to proper discounting techniques
29 and resulting impact on the assessment was un rebutted.⁵
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36 ⁵ Appellants also presented additional MAI appraiser testimony and other evidence that a
37 discount period of 5 years, assuming a 2024 completion date, is conservative. An HR&A study
38 focused on the Rose Kennedy Greenway in Boston (included in Mr. Macaulay’s backup files as one
39 of his examples of how public projects can enhance adjacent property values) indicates that during
40 the construction period, the Greenway district “significantly” lagged in value compared to
41 neighboring properties. Gibbons Decl., Ex. C at 24 (LID_0005611). That study recognized that the
42 “reorientation of development to capture value takes time”—specifically, 12-13 years. *Id.* at 30-31
43 (LID_0005613 - 005614) (discussing New York City High Line and San Francisco Embarcadero
44 improvements). Applying standard discounting techniques and the PricewaterhouseCoopers
45 Korpacz report, anticipated special benefits after 10 years (using pre-COVID numbers), would have
46 been just 9% of the total value estimated in the 2019 Study, which is less than a quarter of the City’s
47 total \$175,000,000 assessment. Gibbons Decl., Ex. A (LID_005607).

1 112. Mr. Macaulay and Mr. Lukens acknowledged that appraisers can use
2 discounting to value a future condition, and if they were performing a discounting analysis,
3 the approach proposed by Mr. Gibbons was not unreasonable. *See* 6/23/2020 Hrg. Tr. at
4 74:1-75:1 (LID_003195 - LID_003196); 77:2-19 (LID_003198); *see also* 2/27/2020
5 Macaulay Depo. at 106:11-108:17 (LID_008613 - LID_008615); 6/26/2020 Hrg. Tr. at
6 184:5-185:22 (LID_0003843 - 0003844), 187:18-189:23(LID_0003846 - 0003848).
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9 113. Mr. Macaulay's approach for vacant land available for development in the
10 2019 Study applied a similar approach. He testified that the difference between vacant sites
11 and developed sites was that the labor, capital, and risks associated with development had
12 not yet been borne for those vacant sites. Therefore, the vacant land was not valued as
13 highly and received a smaller assessment. 6/19/2020 Hrg. Tr. at 28:1-13 (LID_002978); *see*
14 *also* 6/18/2020 Hrg. Tr. at 205:9-12 (LID_002904).
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17 114. The Examiner did not make any finding addressing Appellants' MAI and
18 other evidence or argument on discounting.
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21 **2. The 2019 Study did not properly document or segregate what**
22 **increase in property value would be due to the WSDOT Improvements.**
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24 115. In a typical LID, the "Before" value is the estimated market value of the
25 property as-is. And the "After" value is the estimated market value of the property with the
26 proposed improvements.
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29 116. The City is not allowed to assess LID properties for benefits associated with
30 removal of the Viaduct and restoration of Alaskan Way, which WSDOT had already agreed
31 to fund. "A primary assumption of [the 2019 Study] is that in the before (without LID)
32 scenario, the Alaskan Way viaduct had been removed and Alaskan Way had been rebuilt to
33 WSDOT standards, at street level." 2019 Study at 3 (LID_000183).
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1 117. In particular, the City's Before values were supposed to reflect any property
2 value increase that would have accrued to Appellants' properties as a result of other projects
3 in the area, and specifically those WSDOT had already agreed to construct: Viaduct
4 demolition, the new Alaskan/Elliott Way surface street, the new/improved Seawall, the State
5 Route 99 Tunnel, the Pier 62 rebuild, Bell Street improvements, landscaping, and parking
6 spaces WSDOT planned fronting piers between Pike and Madison (together, the "WSDOT
7 Improvements").

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15 118. At the time of the valuation, on October 1, 2019, no construction had begun
16 on the WSDOT Improvements, aside from commencement of the Viaduct demolition, which
17 was ultimately completed in November 2019. The remaining WSDOT improvements were
18 being substituted with the LID Improvements and other City improvements. The
19 completion of WSDOT Improvements and related property value enhancement were,
20 therefore, an extraordinary assumption and hypothetical condition in the 2019 Study.

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26 119. Mr. Macaulay acknowledged that Viaduct removal and the WSDOT
27 Improvements would have resulted in significant increases to property value. *See* 6/23/2020
28 Hrg. Tr. at 44:7-17 (LID_003165); *see also id.* at 188:25-189:5 (LID_003309 -
29 LID_003310) (he did not see 10-15% increases in value from the LID Improvements
30 because his team assumed removal of the viaduct in the Before condition).

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36 120. Appellants' evidence supports Mr. Macaulay's testimony that removal of the
37 Viaduct resulted in significant changes that impacted property values. Mr. Gibbons
38 provided the following comparison photos,⁶ where "Current Condition" is October 2019
39 actual conditions, "No-LID" is WSDOT's planned improvements, and "With LID
40 Alternative" is the City's.
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⁶ A full set of these comparisons is at LID_015960 - LID_015991.

South Main Street looking Northwest:

Current Condition



No-LID Alternative



With LID Alternative



Marion Street Pedestrian Bridge, looking Northwest:

Current Condition



No-LID Alternative



With LID Alternative



121. Although it is undisputed that WSDOT Improvements would have significantly changed Before property values, the 2019 Study did not estimate the actual market value of Appellants' properties as of October 1, 2019, and there was no documentation or analysis of what hypothetical increase in value was attributable to the WSDOT Improvements for Appellants' properties.

122. During cross-examination, Mr. Macaulay was asked if there was "anywhere in the report where [a reader] can see where you went from current values to the before values accounting for this increase in value due to the viaduct removal and the Wash DOT improvements?" See 6/23/2020 Hrg. Tr. at 44:18-45:9 (LID_003165-LID_003166). He answered: "No. As previously stated, that wasn't the scope of our services. We didn't do two independent values in the before. We just did what we were hired to do, which was to just value the property assuming the viaduct is gone and Alaskan Way was rebuilt." *Id.*

123. Mark Lukens, the expert the City hired to review the City's Before valuations for hotels, did not understand that Before values were supposed to include a value increase due to Before Improvements. He was asked: "so is it then your understanding that the assumed before value of the properties wasn't necessarily their actual condition as of

1 October 2019, but it was their value assuming that these WashDOT improvements had been
2 completed[?]" 6/26/2020 Hrg. Tr. at 165:6-25 (LID_003824). He responded, "Well, I think
3 as of that date, the viaduct had been removed. I'm not sure about the latter part of that
4 sentence because I'm not sure what the WashDOT standards are."
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9 124. The 2019 Study states that "records of the King County Department of
10 Assessments form the basis of the final assessment roll spreadsheets." 2019 Study at 3
11 (LID_000183). However, nearly all of the "Before" valuations for Appellants' properties
12 substantially exceed the Assessors' valuations, some by nearly double. For example, the
13 Hyatt Regency (Parcel No. 0660000708) is valued at 197% of the Assessor's value. And, in
14 any case, in response to such arguments, the City stated that "King County Assessor values
15 are not reliable estimates of current market value." City's Br. ISO Final Assessment Roll at
16 38 (LID_009113). Assessor values do not explain the Before valuations.
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27 **3. This Court finds that the 2019 Study does not demonstrate**
28 **reasonable compliance with appraisal standards.**
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30 125. The Uniform Standards of Professional Appraisal Practice ("USPAP") are the
31 generally recognized ethical and performance standards for the appraisal profession in the
32 United States. Compliance with these standards "ensur[es] that appraisals are independent,
33 consistent, and objective."⁷
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38 126. USPAP Standards 1 and 2 govern direct property appraisals. Mr. Macaulay
39 initially testified that "these appraisals are governed by Standards 1 and 2 which govern
40 direct appraisals." See 6/23/2020 Hrg. Tr. at 203:3-18 (LID_003324). However, before this
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⁷ See The Appraisal Foundation, available at <https://www.appraisalfoundation.org/imis/>.

1 Court, the City has stated that “[c]ompliance with USPAP Standards 1 and 2 was not
2 required.” City’s Response Br. at 24.
3

4 127. There are no separate appraisal reports for Appellants’ properties. Further,
5 Mr. Macaulay testified that the 2019 Study’s spreadsheets—the only property-specific
6 analysis he provided—do not show how he appraised Appellants’ properties. *See* 6/18/2020
7 Hrg. Tr. at 189:2-190:2 (LID_002888 - LID_002889).
8

9 128. When asked whether “a parcel-by-parcel direct appraisal [was] feasible
10 here,” Mr. Macaulay answered: “Well, it would be possible, but it just wouldn’t be
11 economically feasible. It would take an incredible amount of time.” *See* 6/18/2020 Hrg. Tr.
12 at 125:15-10 (LID_002824). Mary Hamel, a trainee with ABS Valuation who assisted with
13 the residential condominium valuations, affirmed in her declaration that “performing an
14 individual appraisal of each parcel would have been time and cost prohibitive.” Hamel
15 Decl., ¶ 9 (LID_009817).
16

17 129. USPAP Standards 5 and 6 govern mass appraisals. The 2019 Study states that
18 it complies with these standards. *See* 2019 Study at 2 (LID_000182).
19

20 130. A mass appraisal is different from a parcel-by-parcel direct appraisal. A
21 “mass appraisal” is “the process of valuing a universe of properties as of a given date using
22 standard methodology, employing common data, and allowing for statistical testing.”
23 Appraisal Foundation, Uniform Standards of Professional Appraisal Practice Advisory
24 Opinion (AO-32) at 150 (2020-2021) (LID_017682).
25

26 131. Standard 5 requires mass appraisals to develop a model structure that
27 conceptualizes the relationship between characteristics that affect value, and to calibrate that
28 model to specify how individual characteristics affect value. *See* USPAP Standard 5: Mass
29 Appraisal, Development (2020-21) (LID_010778 - 010783). The City’s witness Mr. Paul
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1 Bird testified: “The mass appraisal technique is an appraisal method used to evaluate a
2 group of properties that are subject to similar market forces as of a certain date through the
3 use of market data, statistical analysis and testing. As a result, the mass appraisal technique
4 does not require or involve analysis of each individual property’s specific data.” Bird Decl. ¶
5 20 (LID_009241).
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10 132. Appellants’ expert, Mr. Randall Scott, is a former appraiser who helped
11 develop Standards 5 and 6. He explained that a model structure that complies with Standard
12 5 may presume that land + building = value, and calibration of that model might calculate
13 value per square foot of land or building. *See* 3/3/2020 (R. Scott) Hrg. Tr. at 195:12-196:16
14 (LID_008044 - 008045). The purpose of the model is to rationally determine what
15 characteristics will create value, and by how much. This allows the mass appraiser to not
16 only generate outputs, but also to test the reliability of the model (and allow others to do so)
17 by comparing the results of the model with actual sales. *Id.* at 197:7-15 (LID_008046);
18 203:21-205:13 (LID_008049 - 008051) (explaining that it is typical to test output against
19 actual sales).
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30 133. Standard 6 contains reporting requirements for mass appraisals and requires
31 the mass appraisal report to “summarize and support the model specification,” “summarize
32 calibration methods considered and chosen, including the mathematical form of the final
33 model(s),” and “summarize the reconciliation performed.” *See* Ex. C-25 at 2 (LID_010785).
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39 134. Advisory Opinion 32, which interprets USPAP Standards 5 and 6, states that
40 when properties within a mass appraisal must be appraised individually (such as special use
41 properties), these appraisals should comply with USPAP Standards 1 and 2. LID_017684.
42 Further, individual property report cards are “not the mass appraisal report; [they] are only a
43 portion of the information and analysis supporting the mass appraisal.” *Id.*
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1 135. Although the City argues that they Mr. Macauley went above and beyond
2 what is required by providing some property-specific information in the 2019 Study, Mr.
3
4 Macaulay did not provide a statistical model, as required by USPAP Standards 5 and 6.
5

6 136. There are no direct appraisal reports for Appellants' properties as required by
7
8 USPAP Standards 1 and 2;
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10 137. Mr. Macauley testified that his spreadsheets, the only property-specific
11 analysis he provided, do not show how he appraised Appellants' properties. *See* 6/18/2020
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13 Hrg. Tr. at 189:2-190:2 (LID_002888 - LID_002889).
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15 138. The Examiner did not issue any specific findings with respect to USPAP
16 compliance. The Examiner did not address the lack of a statistical or other model structure
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18 in the 2019 Study. The Examiner did not address Mr. Macaulay's specific disclaimer of
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20 having complied with USPAP Standards 1 and 2, nor the absence of property-specific
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22 appraisals.
23

24 139. However, the Examiner simply concluded that "Mr. Macaulay's testimony
25
26 and the Final Special Benefit Study with supporting data demonstrate that the Study
27
28 complied with the requirements of USPAP including Standards 1, 2, 5, and 6." Examiner's
29
30 Final Recommendation at 14 (LID_000860).
31
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35 **4. This Court finds the special benefit estimates for Appellants'**
36 **properties were not supported by property-specific data and misapplied**
37 **the Crompton study.**
38

39 140. A special benefit must be a measurable increase in the amount a market
40 participant would pay for property after taking into account the improvement. Mr. Macaulay
41 explained that "specially benefitted is what's measurable in the marketplace where you
42
43 discern a market value difference in the before and after values that the market would pay
44
45 for a property." *See* 2/27/20 Macaulay Depo. at 22:10-13 (LID_016948).
46
47

1 141. The 2019 Study predicted that market participants would pay 0.4%-3.2%
2
3 more in 2024, when the LID Improvements were complete, as compared to what they would
4
5 pay in 2024, if the WSDOT “Before” improvements had been completed instead.
6

7 142. This hypothesized future increase in market value was influenced by smaller
8
9 adjustments to revenue and capitalization rate for all of the commercial properties.
10

11 143. It is undisputed that the income method is an appropriate method of valuing
12
13 Appellants’ commercial properties. Using the income method, appraisers using processes
14
15 that are followed in the general appraisal community divide net income by a capitalization
16
17 rate to estimate the value of commercial properties..
18

19 144. As one example of the adjustments to revenue, for the Hyatt Regency, Mr.
20
21 Macaulay’s spreadsheet estimated that revenue would increase by 0.20%-0.45% between the
22
23 hypothetical WSDOT Improvements and anticipated LID Improvements. This translated to
24
25 an increase from \$365 average daily room rate to \$365.73-\$366.64. In other words, he
26
27 estimated that a market participant would pay between 73 cents and \$1.64 more for a room
28
29 due to the LID Improvements in 2024.
30

31 145. Mr. Macaulay started with a 7.25% capitalization rate and adjusted that by
32
33 0.05% and 0.02%. He testified that these small adjustments to the capitalization rate were
34
35 not driven by any particular academic study or verifiable methodology. Rather, these
36
37 adjustments were simply based on his team’s judgment. 2/27/2020 Depo. at 156:5-7
38
39 (LID_017082).
40

41 146. According to Mr. Macaulay, Mr. Mark Lukens was hired to review the
42
43 Before and After valuations for the hotels, and specifically to review the numbers in the
44
45 spreadsheets. *See* 6/19/2020 Hrg. Tr. at 105:4-109:24 (LID_003055 - 003059). However,
46
47

1 Mr. Lukens could not explain the percentage changes to revenue in Mr. Macaulay's
2
3 spreadsheets.

4
5 147. Mr. Lukens further testified that he did not review any work or data to
6
7 determine whether the percentage adjustments in the spreadsheets were reasonable, nor did
8
9 he ever find them to be unreasonable or suggest any changes. *See* 6/26/2020 Hrg. Tr. at
10
11 172:3-20 (LID_003831). Instead, he testified that the adjustments "appear to be a kind of
12
13 sensitivity analysis" and "appear to be a very minor change." *Id.* at 170:18-172:13
14
15 (LID_003829 - LID_003831). Likewise, he did not know what factors went into
16
17 determining the small changes in capitalization rates in the spreadsheets. *Id.* at 173:23-174:1
18
19 (LID_003832 - LID_003834). Finally, he did not know how Mr. Macaulay reconciled the
20
21 four scenarios in each spreadsheet to come to final estimated special benefit. *Id.* at 174:22-
22
23 175:4 (LID_003834- LID_003835).

24
25 148. Formulas in the spreadsheets multiply "Before" revenue by these percentage
26
27 changes to arrive at "After" values. Mr. Macaulay acknowledged that changing "Before"
28
29 revenue values (e.g., for hotels, by lowering them) would change the ultimate special benefit
30
31 conclusion, because of the formulas in the spreadsheets. 6/25/2020 Hrg. Tr. at 42:21-43:15
32
33 (LID_003447 - LID_003448) (explaining that changing the room rate will result in a
34
35 different assessment and the same is true for every hotel).

36
37 149. Appellants argued that these formulas and Mr. Macaulay's testimony show
38
39 that Mr. Macaulay arbitrarily assigned (rather than measured) special benefit increases. The
40
41 City disagreed, and the Hearing Examiner accepted the City's argument, reasoning that Mr.
42
43 Macaulay explained that the spreadsheets summarized his work and demonstrated his
44
45 calculated increase as a percentage, but that formulas were not relied upon. Examiner's Final
46
47 Recommendation at 12 (LID_000858); City's Response Br. at 27-28.

1 150. The City argues that 25 “background studies” informed Mr. Macaulay’s
2 adjustments in the spreadsheets and his ultimate special benefit conclusions. City’s
3 Response Br. at 28. However, Appellants point out that there is no specific explanation in
4 the record showing how any of the academic studies or literature, data or sources were
5 related to any particular property within the LID, including Appellants’ properties. *See*
6 Gibbons letters (LID_003889 – 003893; LID_003899 – 003905) and Shorett report
7 (LID_003907 – 003954).
8
9

10 151. A crucial study cited in the 2019 Study and raised in both the City’s and
11 Appellants’ briefing is by Dr. John Crompton. Dr. Crompton’s research concluded that 75%
12 of the benefit from a park is captured within 500 feet, or three blocks. And the remaining
13 25% of the benefit is likely dissipated over a 500- to 2,000 foot range, or 4 to 12 city blocks.
14 2019 Study at 46 (LID_000331).
15
16

17 152. The 2019 Study concluded that “[b]ased on the research conducted and
18 discussed, there is a positive impact on all property types within a three-block radius of an
19 improved park with a lower yet still measurable impact on properties up to twelve blocks
20 away. Many studies show that approximately 75% of the benefit from an improved park is
21 captured within the first three blocks and the remaining 25% dissipated for up to twelve
22 blocks.” *Id.* at 56 (LID_000341).
23
24

25 153. Dr. Crompton testified that Mr. Macaulay misinterpreted his work in critical
26 ways. Among other critiques, Dr. Crompton testified that the biggest aesthetic factor
27 impacting property value is views (e.g., viaduct removal, which the City could not assess
28 for), and that other improvements would provide diminishing returns. *See* Crompton’s
29 Report (LID_016796-LID_016814). As an analogy, turning on a weak light has a large
30 impact in a dark room, but that same increment of light might be undetectable in a brightly
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1 lit room. *Id.* (LID_016808). Likewise here, the incremental effect of “park” improvements
2 on the value of properties that already have views of the water is likely to be very small or
3 non-existent. *Id.*
4

5
6 154. Dr. Crompton further testified that updated research shows park-related value
7 increases are in fact smaller and that estimated increases are “best guesses” that do not
8 actually predict how property values will respond in a particular city. *See* Crompton’s
9 updated 2020 study (LID_016815 - LID_016835).
10
11

12
13 155. Dr. Crompton also testified that 500 feet (or 1.5 blocks in Seattle) is the
14 furthest distance one might expect property value impacts from excellent community parks
15 (LID_016803 - LID_016804). From reading the 2019 Study, Dr. Crompton inferred that
16 Mr. Macaulay seized on the reference to “blocks” to conclude that 75% of a benefit from a
17 park is captured within “3 blocks” and the remaining 25% will dissipate over “4-12 blocks”.
18 *See id.* at 6 (LID_016801) (quoting 2019 Study at 46 and 83) (LID_000331, LID_000368).
19
20

21 156. However, Dr. Crompton testified that his reference to “blocks” was to give
22 the lay reader a sense how far a benefit might extend. Because Seattle’s “blocks” are much
23 longer (~ 300 feet) than normal residential ones, Mr. Macaulay “inappropriately extend[ed]
24 the LID impact significantly beyond that which the park study indicated (even if it was
25 legitimate to use the park review’s findings).” *Id.* at 8 (LID_016802).
26
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28 157. Mr. Macaulay also failed to recognize that the underlying studies used road
29 network analysis (as opposed to “as the crow flies” distance), which had the effect of further
30 inflating the assumed impact zone.
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33 158. Finally, Dr. Crompton testified that bad parks (e.g., drugs, crime, graffiti)
34 can, in fact, be disamenities (LID_016806).
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1 159. In sum, the special benefit estimates for Appellants' properties ranged from
2 0.4%-3.2% and these specific percentages—which were the basis for the assessments—were
3 not supported by any property-specific data or studies.
4

5
6 **F. Appellants' Expert and Lay Testimony**
7

8 160. Appellants presented reports and testimony from ten experts, including four
9 appraisers (Anthony Gibbons, Peter Shorett, John Gordon and Brian O'Conner), two non-
10 appraiser property valuation experts (Randall Scott and Ben Scott, tax appeal representatives
11 who cannot be MAI appraisers because they work in most cases on contingency), a world
12 renowned park valuation expert (Dr. John Crompton), a land use expert (Reid Shockey), a
13 construction scheduling expert (Richard Shiroyama), a GIS land mapping expert (Dr. Ellen
14 Kersten), and thirteen property owner representatives with extensive real estate knowledge,
15 training and experience.
16

17 161. John Gordon was qualified as an expert on hotel valuations. He testified
18 regarding ABS Valuations' method for appraising the hotels and provided actual 2019
19 Before values for four of Appellants' hotel properties.⁸ The Hearing Examiner found: "Mr.
20 Gordon is a specialist expert in appraising hotels and his expert opinion, in addition to the
21 specific information he relied on for that opinion, is superior to the opinion and supporting
22 data of the City in its valuation." Final Recommendation at 11 (LID_000857). Mr. Gordon
23 testified initially and on remand that the City's Before valuations were too high.
24

25 162. Brian O'Connor specializes in multi-family appraisals. He concluded in his
26 review appraisal that the City had overvalued the five multi-family towers.⁹ His appraisal
27 reports are based on actual January 2020 values.
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46 ⁸ These include the Grand Hyatt, Renaissance Hotel, Hyatt Regency and Hyatt at Olive 8.
47 ⁹ These are the four Harbor Steps towers and Helios Apartments.

1 163. Anthony Gibbons and Peter Shorett are both qualified appraisers, each with
2 over 40 years of experience. They studied Mr. Macaulay's methods and opined that there
3 was no way to accurately estimate what special benefits—if any—might ultimately flow
4 from the future LID improvements anticipated in 2024.
5
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8 164. All of Appellants appraisers presented testimony and evidence that Mr.
9 Macaulay's methods and conclusions in the 2019 Study were speculative, unreliable, and
10 (most importantly) do not meet generally accepted appraisal standards or practices.
11 Appellants' appraisers, as well as Ben and Randall Scott, also testified that it was not
12 possible based on the available data to determine in an actual, measurable, or substantial
13 way, any potential special benefit that might inure to Appellants' properties in or around
14 2024 as a result of the LID Improvements.
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17 165. Finally, Randall Scott, a former MAI appraiser responsible for developing the
18 standards for mass appraisals, testified that the 2019 Study does not meet mass appraisal
19 standards nor allow for independent review of Mr. Macauley's conclusions.
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22 166. Appellants' other expert witnesses also presented evidence that Mr.
23 Macaulay's assumptions, methods, and conclusions were flawed. The testimony was
24 uncontroverted that Dr. Crompton is the world's preeminent authority on a park's influence
25 on property values. He testified that Mr. Macaulay misinterpreted his research to expand the
26 LID boundary, mischaracterized the improvements, and overstated potential benefits.
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29 167. Dr. Ellen Kersten is a GIS mapping expert and provided maps showing the
30 location of Appellants' properties in relation to LID Improvements.
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1 168. Land use and construction experts, Reid Shockey, Camie Anderson, and
2 Richard Shiroyama, testified regarding risks the underlying assumptions that the City will
3 deliver the LID Improvements on time and as promised.¹⁰
4

5
6 169. Although Appellants' witnesses testified that it would be speculative to
7 estimate the impact of the LID Improvements five years into the future based on incomplete
8 designs, Appellants attempted to provide evidence concerning processes that could have
9 been used to mitigate speculation and estimate potential reduced After values—e.g., by
10 using Appellants' Before values and discounting for COVID and to account for risks
11 associated with the delayed delivery of improvements. This testimony was discarded by the
12 Hearing Examiner.
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20 **G. The City's Expert and Lay Testimony**
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22 170. The City presented testimony from Robert Macaulay, MAI, Marshall Foster,
23 the City's Waterfront Improvement Project Manager, and Mark Lukens, MAI. These and the
24 remainder of witnesses also submitted declarations.
25
26

27 171. Mr. Macaulay works for ABS Valuation, Inc. The City hired ABS Valuation
28 to prepare a Feasibility Study, a Formation Study from which the City established the LID
29 boundary, and the 2019 Study which purported to estimate the special benefit for each LID
30 parcel due to the LID Improvements as compared to the WSDOT Improvements. Mr.
31 Macaulay is the lead author of these studies, and he testified regarding his process and
32 conclusions in the studies, including the 2019 Study.
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40 172. The Examiner relied on the 2019 Study and Mr. Macaulay's conclusions on
41 remand in the Final Recommendations.
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¹⁰ Their testimony is not specifically addressed at all in the Examiner's Final
47 Recommendation. *See* Examiner's Final Recommendation at 114 (LID_000960).

1 173. Marshall Foster is director of the Office of the Waterfront and Civic Projects,
2 responsible for managing development of the Waterfront Park improvements. He testified
3 regarding anticipated timing and delivery of the LID Improvements.
4

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6 174. Mark Lukens is an appraiser, hired by ABS Valuation to assist with hotel
7 valuations.
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10 175. At the closing of cross-examination, the City submitted six declarations from
11 Mr. Macaulay, Alena Johnson, Heidi Hughes, Joshua Curtis, Mary K. Hamel, and Paul C.
12 Bird.
13
14

15 176. Alena Johnson is a Fiscal Policy Analyst for the City and testified regarding
16 Mr. Macaulay's contract with the City and his scope of services.
17
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19 177. Heidi Hughes is the Executive Director for Friends of the Waterfront and
20 testified regarding her belief that the Seattle Waterfront Park would offer a vibrant,
21 welcoming public mixing ground.
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24 178. Joshua Curtis is the Partnership Manager for the City's Office of the
25 Waterfront and Civic Projects and testified regarding the City's outreach leading to
26 formation of the Waterfront LID.
27
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29 179. Mary K. Hamel was an appraisal trainee and former employee with ABS
30 Valuation. She testified regarding her role doing market research for the 2019 Study and
31 developing values for the residential properties in the LID.
32
33

34 180. Paul C. Bird is a Senior Associate Appraiser at ABS Valuation. He testified
35 regarding his role in helping prepare the 2019 Study and valuation of the hotel properties.
36
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38 181. In reply to "cross examination" declarations submitted by objectors, the City
39 submitted "reply" declarations from Angela Brady, Dorinda Costa, Jill Macik.
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1 182. Angela Brady is the Deputy Director for the City's Office of Waterfront and
2 Civic Projects. She responded to and critiqued Mr. Shiroyama's testimony regarding the
3 City's construction timelines and estimated completion dates.
4

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6 183. Dorinda Costa is a Finance Manager for the City's Office of Waterfront and
7 Civic Projects. She responded to and critiqued Mr. Shiroyama's testimony regarding cash
8 flow for the LID Improvements.
9

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11 184. Jill Macik is a Senior Environmental Analyst and State Environmental Policy
12 Act Official for the City's Department of Transportation. She responded to and critiqued Mr.
13 Shockey and Ms. Anderson's testimony regarding the City's environmental review and
14 permitting status for each of the LID Improvements.
15

16
17 **H. Property-Specific Findings**
18

19
20 185. Mr. Macaulay and his team provided spreadsheets for each of Appellants'
21 commercial properties. There were no individual reports or spreadsheets for the residential
22 condos.
23

24 186. For the commercial properties, except for United Way and Lot B (the vacant
25 lot next to the Hyatt Regency), the spreadsheets used an income-based valuation to estimate
26 Before and After values. Income-based property valuations estimate revenue and expenses
27 to arrive at net operating income. The net operating income is then divided by a
28 capitalization rate to arrive at a valuation. It is undisputed that the income approach is the
29 appropriate way to value commercial properties.
30

31 187. Each spreadsheet generally had three columns. In the first column is the
32 Before analysis. The Before analysis estimated revenue and expenses to calculate a net
33 operating income, then divided that by a capitalization rate to estimate a valuation under
34 Before conditions (i.e., assuming completion of WSDOT Improvements).
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1 188. In the second column, Mr. Macaulay made high/low adjustments to revenue
2 sources. For example, for the Hyatt at Olive 8, he adjusted room revenue, food and beverage
3 revenue, and parking and other income by 0.45% in the low scenario and 0.85% in the high
4 scenario. This resulted in a higher net operating income, and therefore a higher valuation.
5
6

7
8 189. When asked whether there was “anywhere in the report where we can see this
9 work or how you came up with the two percentages in the low and high scenarios,” Mr.
10 Macaulay answered, “No. Again, we didn’t write up a separate report ...” 6/23/2020 Hrg.
11 Tr. at 114:24-115:3 (LID_03233-3234). He further testified that there was no model or
12 equation he was relying on to make these adjustments. *Id.*
13
14

15 190. In the third column, Mr. Macaulay kept revenue sources stable but made
16 high/low adjustments to capitalization rates. So, again, for the Hyatt at Olive 8, he adjusted
17 the capitalization rate from 7.50% to 7.40% (low) and 7.45% (high). This also resulted in a
18 higher valuation after net operating income was divided by the lower capitalization rates.
19
20

21 191. Finally, in a “Special Benefit Summary” at the bottom of each spreadsheet,
22 there was a summary of the Before valuation and the four alternative After valuations
23 (high/low revenue adjustment, and high/low capitalization rate). These resulted in a final
24 conclusion, but it is not clear from the spreadsheets, the 2019 Study, or the record whether
25 the four scenarios are averaged or how the final special benefit conclusion was reached.
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28 192. For the United Way and Lot B, the spreadsheets provided a per square
29 footage land value estimate Before and After to calculate special benefits.
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32 193. For the residential condos, there were no property-specific reports. As
33 explained below, all condos in a particular complex received the exact same special benefit
34 percentage increase.
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Harbor Steps

194. The Harbor Steps is the owner of four residential apartment buildings (collectively referred to as the Harbor Steps) with ground floor retail located at the following addresses:

Harbor Steps NW	1306 Western Ave., Seattle, Washington
Harbor Steps NE	1301 1st Ave., Seattle, Washington
Harbor Steps SW	1212 Western Ave., Seattle, Washington
Harbor Steps SE	1201 1st Ave., Seattle, Washington

195. Harbor Steps timely appealed the City's imposition of the following Waterfront LID Assessments on each of the four Harbor Steps buildings:¹¹

Harbor Steps NW	King County Parcel No. 1976200070	\$839,675 Waterfront LID Assessment
Harbor Steps NE	King County Parcel No. 1976200075	\$1,376,079 Waterfront LID Assessment
Harbor Steps SW	King County Parcel No. 7666202465	\$1,289,878 Waterfront LID Assessment
Harbor Steps SE	King County Parcel No. 1976200076	\$1,767,509 Waterfront LID Assessment

¹¹ Dollar amounts in these findings and conclusions are rounded to the nearest dollar.

1 196. The following table reflects the 2019 Study's estimated assessments on the
2 Harbor Steps properties, which was adopted by the Hearing Examiner and affirmed by City
3 Council.
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Harbor Steps Property	City's Final Assessment Amount	City's Valuation without LID Improvements	Special Benefit Percentage
Harbor Steps NW	\$839,675.00	\$77,938,000	2.75%
Harbor Steps NE	\$1,376,078.86	\$127,557,000	2.75%
Harbor Steps SW	\$1,289,878.02	\$119,788,000	2.75%
Harbor Steps SE	\$1,767,509.04	\$180,511,000	2.50%

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29
30 197. Harbor Steps presented expert testimony and evidence from Mr. Brian
31 O'Connor, a licensed appraiser, Mr. Anthony Gibbons, a licensed appraiser, and Mr.
32 Benjamin Scott, a tax consultant. (LID_004350-58; LID_004331-37; LID_004360-65).
33
34

35 198. Mr. O'Connor provided an appraisal review and analyzed the Before Value
36 of all four Harbor Steps properties using an income approach. (LID_004355). His analysis
37
38 concluded that the City's appraisal overstated the collective Harbor Steps properties' Before
39 value by \$88 million. (LID_004355).
40
41

42 199. Mr. Gibbons' appraisal review concluded that the After value of the four
43 Harbor Steps buildings were speculative in nature. (LID_004337).
44
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1 200. Mr. Scott provided a tax analysis and concluded that the proposed LID
2
3 Improvements were not necessary to the function of the four Harbor Steps buildings.
4
5 (LID_004360-62).

6 201. Harbor Steps also presented witness testimony from property representative
7
8 Ed Leigh. (LID_001410-16). Mr. Leigh testified to the character of the Harbor Steps
9
10 buildings, the tenant market, and the impacts from COVID-19. (LID_001411; LID_001415-
11
12 16; LID_012514-15).

13 202. The Harbor Steps also presented testimony that the LID Improvements—in
14
15 particular, Overlook Walk—would draw foot traffic away from the Harbor Steps which
16
17 currently provide pedestrian access from downtown to the waterfront.
18
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20 203. The Overlook Walk comprises approximately 30% of the total project costs
21
22 funded by the Waterfront LID. *See* LID_000018.
23

24 204. The findings by Harbor Steps' experts and property representative, if the
25
26 assessments are not annulled, are summarized in the following table:
27

Harbor Steps Property	MAI Expert Appraised Actual 2019 Value	Discount for Covid Impact (10%)	Multiplying Previous Column by City's Special Benefit Percentage and 39.18%	5 Year Discount for Time Value of Money Off (34%)	Overlook Walk Discount (30%)
Harbor Steps NW	\$55,938,000	\$48,945,750	\$527,366	\$179,304	\$125,513
Harbor Steps NE	\$105,557,000	\$92,362,375	\$995,158	\$338,354	\$236,848
Harbor Steps SW	\$97,788,000	\$85,564,500	\$921,915	\$313,451	\$219,416
Harbor Steps SE	\$158,511,000	\$138,697,125	\$1,358,538	\$461,903	\$323,332

1 205. The City’s witnesses testified as to the method of the 2019 Study and the
2 special benefits assigned to the Harbor Steps. (LID_003170-71).

3 **Helios Apartments**

4
5
6 206. Helios Apartments (hereafter “Helios”) is the owner of a multifamily
7 residential apartment building with 398 units located at 206 Pine St., Seattle, Washington.
8 LID_001518-19. In addition, Helios maintains underground and aboveground parking and
9 one retail unit at ground level. (LID_001519).

10
11 207. Helios timely appealed the City’s imposition of \$2,244,356 Waterfront LID
12 Assessment on King County Parcel No. 7683890010.

13 208. The following reflects the 2019 Study’s estimated assessment on this parcel,
14 which was adopted by the Hearing Examiner and affirmed by City Council.

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City’s Final Assessment Amount	City’s Valuation Without LID Improvements	City’s Special Benefit Percentage
\$2,244,356	\$298,884,000	1.92%

24 209. Helios presented the following expert testimony: (1) an appraisal review by
25 Mr. Anthony Gibbons, a licensed appraiser; (2) a tax analysis by Mr. Benjamin Scott, a tax
26 consultant; and (3) appraisal review by Mr. Brian O’Connor, a licensed appraiser.
27 (LID_005499-05; LID_005528-33; LID_005518-26).

28 210. Mr. Gibbons’ appraisal review discussed the After Value of the City’s
29 assessment. (LID_005499-05).

30 211. Mr. Scott testified that the City’s appraiser used an incorrect unit mix to
31 calculate Helios’ valuation. (LID_001626-27; LID_005528-33).

1 212. Mr. O'Connor analyzed the actual Before value of Helios correcting the unit
2 mix mistake, and demonstrated that the City's appraisal overstated the Before value by \$59
3 million. (LID_005523).
4

5
6 213. Helios presented witness testimony from property representative Mr. Ed
7 Leigh. Mr. Leigh provided testimony regarding Helios's rental market, the neighborhood
8 surroundings, and the impact of COVID-19. (LID001520-23; LID_014320-22;
9 LID_012514-15).
10

11 214. Helios also presented testimony and evidence that the City's assessment
12 should have accounted for risks associated with the delivery of the LID Improvements
13 including permitting risk, construction risk, general economic risk, and any special damages
14 associated with interim construction. (LID_001183-89; LID_001123-24).
15

16 215. Additionally, Helios presented evidence that the City's appraiser failed to
17 discount the anticipated 2024 benefit to account for the time value of money. (LID_001118-
18 19). The findings by Helios' expert and property representative, if the assessment is not
19 annulled, are summarized in the following table:
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MAI Expert Appraised Actual 2019 Value	Discount for Covid Impact (10%)	Multiplying Previous Column by City's Special Benefit Percentage and 39.18%	5 Year Discount for Time Value of Money Off (34%)
\$239,800,000	\$209,825,000	\$1,578,421	\$536,663

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45 216. The City's witnesses testified to the method of the 2019 Study and the special
46 benefits assigned to Helios. (LID_003170-71).
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The Hedreen Hotels

217. Elliott NE LLC owns Parcel No. 0660000708, which is the Hyatt Regency, located at 808 Howell Street, Seattle, Washington.

218. Madison Hotel LLC owns Parcel No. 0942000430, which is the Renaissance Seattle Hotel, located at 515 Madison Street, Seattle, Washington.

219. Hedreen LLC owns Parcel No. 2285130010, which is the Hyatt at Olive 8, located at 1635 8th Avenue, Seattle, Washington.

220. Hedreen Hotel LLC owns Parcel No. 6195000030 and 6792120100, which is the Grand Hyatt Seattle, located at 700 Pike Street, Seattle, Washington. (LID_008440).

221. All of these property owners are wholly-owned subsidiaries of R.C. Hedreen Company, and together the four hotels are referred to herein as “The Hedreen Hotels”. *Id.*

222. Each of these properties are multi-story hotels containing guest rooms and meeting space in downtown Seattle. (LID_008442-51).

223. The Hedreen Hotels timely appealed the City’s imposition of the following Waterfront LID Assessment on each parcel.

224. The following table reflects the 2019 Study’s estimated assessment on each hotel. The City’s witnesses testified as to the methods of the 2019 Study and the special benefits assigned to The Hedreen Hotels, including the use of advertised Average Daily Room rates (“ADR”) in lieu of operating data, and the use of a sales comparison approach. LID_010975; LID_009830–009831.

1 225. The Hedreen Hotel presented expert testimony and evidence from Mr. John
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The Hedreen Hotel Properties	City's Valuation without LID Improvements	City's Final LID Assessment	Special Benefit Percentage
Grand Hyatt Seattle ¹²	\$222,002,000	\$1,306,335	1.5%
Hyatt at Olive 8	\$174,622,000	\$683,338	1.00%
Hyatt Regency Seattle	\$634,335,000	\$1,205,636	.49%
Renaissance Seattle Hotel	\$215,497,000	\$420,425	.50%

27 Gordon, and Mr. Peter Shorett, both licensed appraisers with the MAI designation.

28
29 (LID_007501; 007567). Mr. Gordon and Mr. Shorett supported their hotel analyses with
30
31 appraisal reviews, reports and testimony.¹³
32

33 226. Mr. Gordon focused on the properties' actual "Before Values" as of January
34
35 2020, and concluded that the City significantly overstated the property value for each of The
36
37 Hedreen Hotel properties as of October 2019 because the City did not take into account
38
39 actual property-specific operating data, including actual ADR information (contained in
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41
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43

44 ¹² The City combined the Grand Hyatt parcels for purposes of a single appraisal. The
45 properties are valued as a unit. (LID_002216-17).

46 ¹³ LID_007824 (Hyatt at Olive 8); LID_007716 (Hyatt Regency); LID_007758
47 (Renaissance); LID_007857 (Grand Hyatt).

1 STR Reports) and occupancy and trends in order to establish a net operating income.

2
3 (LID_002007-9.)

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5 227. It is undisputed that hotel value is primarily driven by room rate and
6
7 occupancy and that it is critical to obtain accurate room rate information to value a hotel. *See*
8
9 6/23/2020 Hr. Tr. at 108:14-21 (LID_003229).

10
11 228. It is also undisputed that using a lower room rate would result in lower
12
13 valuations and lower LID assessments for the hotels.

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15 229. When asked how it would impact the analysis if actual room rates were much
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17 lower, Mr. Macaulay testified: “Well, assuming that what Mr. Gordon is saying – he has a
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19 basis for it, it would affect both our before and after values if we were to use a lower rate.
20
21 And it would reduce both the before and after values...” 6/23/2020 Hrg. Tr. at 109:17-25
22
23 (LID_003230).

24
25 230. It is undisputed that Mr. Gordon had access to actual room rate information
26
27 from the hotels. This data showed that ADRs for The Hedreen Hotels were much lower than
28
29 what Mr. Macaulay estimated. Mr. Gordon testified that the actual ADRs were significantly
30
31 lower than the City estimated, sometimes by hundreds of dollars. He further testified that a
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33 not using this data would have the effect of reducing the reliability of the pre-LID valuations
34
35 . (LID_002009; LID_002222-23).

36
37 231. Yet, after being ordered by the Council to reevaluate his hypothetical Before
38
39 values using Mr. Gordon’s STR data, the evidence provided showed that Mr. Macaulay’s
40
41 revised analysis on remand slightly reduced the ADRs for The Hedreen Hotels (by \$1 to
42
43 \$10). However, Mr. Macaulay did not use the actual operating reports as a starting point.
44
45 (LID_011028).

1 232. Mr. Gordon provided evidence that this failure resulted in overstated actual
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3 2019 values, in some cases by 40-50%. (LID_011027-28). The following table summarizes
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5 Mr. Gordon's findings.
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	Gordon Appraisal, Derived From Actual ADR Records	City's Initial 2019 Estimated ADR	City's Revised Estimated ADR on Remand
Grand Hyatt	\$240	\$355	\$345
Renaissance Hotel	\$209	\$300	\$295
Hyatt Regency	\$222	\$365	\$335
Hyatt at Olive 8	\$235	\$335	\$325

233. Using higher ADRs resulted in higher valuation estimates. Mr. Gordon testified that each hotel was overvalued by the following amounts:

- a. Grant Hyatt Seattle - \$53,602,000
- b. Hyatt at Olive 8 - \$56,422,000
- c. Hyatt Regency - \$145,410,000
- d. Renaissance Hotel - \$284,000,000

234. Mr. Gordon also provided testimony as to the severity of COVID-19's impact on the value of hotels in Oregon and Washington, with strong evidence showing that the values quickly dropped by 10-15% as a result of the outbreak when compared with values as of October 2019 and January 2020. (LID_019051-59; LID_015261). The City did not rebut this evidence.

235. Mr. Shorett provided appraisal reviews and testimony that the City's study did not provide the necessary evidence to provide credible opinions of property value

1 increases after the LID improvements are in place, and that the estimated special benefit
2 increases were too small and remote to estimate. *See e.g.* LID_003913.
3

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5 236. The Hedreen Hotels also presented witness testimony from Mr. Zahoor
6 Ahmed, Chief Financial Officer and Vice President of R.C. Hedreen Company.
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9 237. Mr. Ahmed testified to the character and business of each hotel, seasonality
10 of average daily room rate, revenue and occupancy rates, the distance of the hotels from the
11 LID improvements, and the impacts of COVID-19 on the hotels. (LID_008442-50). Mr.
12 Ahmed testified that due to COVID, visitor numbers and average daily room rates were
13 driven to near zero, with some hotels closing all together. (LID_015388-93).
14

15 238. The Hedreen Hotels presented testimony and evidence that the City's
16 assessment should have accounted for risks associated with the delivery of the LID
17 Improvements including permitting risk, construction risk and economic risk, as well as the
18 impacts of COVID-19. (LID_001186-89).
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20 239. The findings by The Hedreen Hotel's experts and witnesses, if the assessment
21 is not annulled, are summarized in the following table:
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Hotel	MAI Expert Appraised Actual 2019 Value	Discount for Covid Impact (12.5%)	5 Year Discount for Time Value of Money (34%)
Grand Hyatt	\$168,400,000	\$147,350,000	\$294,432
Hyatt at Olive 8	\$118,200,000	\$103,425,000	\$137,775
Hyatt Regency	\$484,700,000	\$424,112,500	\$276,835
Renaissance Hotel	\$200,700,000	\$175,612,500	\$116,968

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43 240. The City's witnesses testified as to the methods of the 2019 Study and the
44 special benefits assigned to The Hedreen Hotels, including the use of advertised daily room
45 rates in lieu of actual operating data, and the use of a sales comparison chart because use of
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1 actual data rendered Before valuations that were “too low.” (LID_010975; LID_009830–
2
3 009831).

4 **Grand Hyatt Parking and Retail (7th & Pine LLC)**

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7 241. 7th & Pine LLC (hereafter “7th & Pine”) is the owner of Grand Hyatt
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9 Parking and Retail. 7th & Pine LLC is a wholly-owned subsidiary of R.C. Hedreen
10
11 Company. (LID_008451).

12
13 242. This property contains the retail and parking units in the building at 700 Pike
14
15 Street that is also occupied by the Grand Hyatt Seattle. (LID_008451). It includes a parking
16
17 garage with 950 stalls, and a retail space with two full-service restaurants, a Starbucks and
18
19 other small retailers. (LID_002243). 7th & Pine owns the units and leases the retail spaces
20
21 and parking space to third parties, including Grand Hyatt Seattle. *Id.*

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23 243. 7th & Pine timely appealed the City’s imposition of a \$549,334 Waterfront
24
25 LID Assessment on King County Parcel No. 6792120020.

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27 244. The following summary reflects the 2010 Study’s estimated assessment on
28
29 this parcel, which was adopted by the Hearing Examiner and affirmed by City Council.

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City’s Final Assessment Amount	City’s 2019 Valuation without LID Improvements	Special Benefit Percentage
\$549,334	\$93,822,000	1.49%

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37 245. The City’s witnesses testified to the method of the 2019 Study, its revenue
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39 and capitalization rate analysis, and the special benefits assigned to 7th & Pine.
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41 LID_009900-009901; LID_003078–003079.

42
43 246. 7th & Pine presented expert testimony and evidence from John Gordon, a
44
45 licensed appraiser with MAI designation. Mr. Gordon analyzed both the special benefit
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47 assessment and underlying spreadsheets. (LID_002242-49). Mr. Gordon concluded the

1 City's method in calculating the special benefit for Grand Hyatt Parking and Retail was
2 fundamentally flawed. *Id.* Specifically, for the parking lot, Mr. Gordon testified that the City
3 incorrectly assumed that all of the parking stalls leased to the Grand Hyatt hotel would be
4 100% occupied by hotel guests. (LID_002245). Mr. Gordon testified that based on an
5 appraisal review of garages in Downtown Seattle, only 20% to 30% of guests who come to
6 hotels downtown arrive with a car. (LID_002244-46).
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12 247. Mr. Gordon testified that based on a review of the City's valuation
13 spreadsheets, the City assigned different special benefit and capitalization rate increases to
14 this parking and retail parcel than similarly situated parcels. (LID_002249-50). By
15 comparison, a different parking lot near the Grand Hyatt (Parcel 0659000355) received a
16 0.65% special benefit, while 7th & Pine was assigned a special benefit percentage change of
17 1.49%. (LID_000206).
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24 248. 7th & Pine presented testimony from Mr. Zahoor Ahmed, Chief Financial
25 Officer and Vice President of R.C. Hedreen Company. Mr. Ahmed testified to Grand Hyatt
26 Parking and Retail's business, the location and character of the property, and the impacts of
27 COVID-19 on the business. (LID_008450).
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32 249. Mr. Ahmed testified that COVID-19 reduced the need for parking downtown
33 and caused restaurants in this space to close. (LID_008452). Mr. Ahmed concluded that the
34 LID improvements are not necessary to the functionality or use of the property as a retail
35 space or parking garage, and may in fact decrease its property value. (LID_008451).
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40 250. 7th & Pine presented testimony and evidence that the City's assessment
41 should have accounted for risks associated with the delivery of the LID Improvements
42 including permitting risk, construction risk and economic risk, as well as the impacts of
43 COVID-19. (LID_001186-89).
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1 251. A summary of 7th & Pine’s expert evidence and testimony regarding the
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3 assessment, if the assessment is not annulled, is as follows:
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2019 Appraised Value	Discount for Covid Impact (12.5%)	5 Year Discount for Time Value of Money (34%)
\$93,822,000	\$82,094,250	\$162,945

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12 **Lot B**

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14 252. Lot B LLC (“Lot B”) is the owner of the property located at 815 Howell
15 Street, in Seattle Washington. Lot B is a wholly-owned subsidiary of R.C. Hedreen
16 Company. (LID_008441).
17
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20 253. The property is an undeveloped lot east of the Hyatt Regency Seattle, and is
21 leased to a third party who operates a surface parking lot on the property and pays rent to
22 Lot B. (LID_008452).
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26 254. Lot B timely appealed the City’s imposition of a \$73,663 Waterfront LID
27 Assessment on King County Parcel No. 0660000740.
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30 255. The following summary reflects the 2019 Study’s estimated assessment on
31 this parcel, which was adopted by the Hearing Examiner and affirmed by City Council. The
32 City’s witnesses testified to the method of the mass appraisal, its revenue and capitalization
33 rate analysis, and the special benefits assigned to Lot B. LID_009249–009251;
34 LID_016854–016855.
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City’s Final Assessment Amount	City’s 2019 Valuation without LID Improvements	Special Benefit Percentage
\$73,663	\$46,935,000	0.40%

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1 256. Lot B presented expert testimony and evidence from John Gordon, a licensed
2 appraiser with MAI designations. Mr. Gordon analyzed the City's underlying spreadsheets
3 that support the special benefit assessment. (LID_002255). Mr. Gordon concluded the City's
4 calculated special benefit for Lot B lacked support. (LID_0022557). Mr. Gordon testified
5 that the 0.40% special assessment amount assigned to Lot B assumed an increase of about
6 \$7 per square foot due to the LID Improvements, but the City provided no basis for the
7 special benefit increase and it appears to be a rounding error. (LID_002258).
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14 257. Lot B presented witness testimony from Mr. Zahoor Ahmed, Chief Financial
15 Officer and Vice President of R.C. Hedreen Company. Mr. Ahmed testified to Lot B's
16 parking business, the character of the undeveloped property, its location in relation to the
17 LID improvements, and the impacts of COVID-19 on the businesses. (LID_008453).
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21 258. Mr. Ahmed testified that the property is located a 3/4 mile walk uphill from
22 the proposed LID improvements, and because of that Lot B cannot recover the cost of the
23 LID assessment from its tenant under the lease or through future rent increases. *Id.*
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27 259. Mr. Ahmed testified that COVID also reduced the need for parking
28 downtown and greatly impacted Lot B's business. LID_008453. Mr. Ahmed concluded that
29 the LID improvements are not necessary to the functionality or use of the property as a
30 parking lot or to the future redevelopment of the property, and that the property is more
31 valuable without the LID improvements. (LID_08453-54).
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35 260. Lot B also presented testimony and evidence that the City's assessment
36 should have accounted for risks associated with the delivery of the LID Improvements
37 including permitting risk, construction risk and economic risk, as well as the impacts of
38 COVID-19. (LID_014178; LID_001186-89).
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1 261. The findings by Lot B's expert and property representatives, if the
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3 assessment is not annulled, are summarized in the following table:
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October 2019 Appraised Value	Discount for Covid Impact (12.5%)	5 Year Discount for Time Value of Money (34%)
\$46,935,000	\$41,068,125	\$21,883

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11 262. The City's witnesses testified to the method of the 2019 Study, its revenue
12 and capitalization rate analysis, and the special benefits assigned to Lot B. (LID_009249–
13 009251; LID_016854–016855).
14
15

16 **Seattle Waterfront Marriott**
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19 263. The Seattle Waterfront Marriott (Ashford) property is a high-end hotel
20 located at 2100 Alaskan WY, Seattle, Washington. The hotel is located on the waterfront,
21 over 500 feet from any of the LID Park Improvements.
22
23

24
25 264. Seattle Waterfront Marriott timely appealed the City's imposition of an initial
26 \$ 2,106,827 Waterfront LID Assessment on King County Parcel No. 7666202345. The
27 following table reflects the 2019 Study's assessment, which was adopted by the Hearing
28 Examiner and affirmed by City Council. The City's witnesses testified to the method of the
29 mass appraisal and the special benefits assigned to Seattle Waterfront Marriott.
30
31 LID_003170-71.
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City's Assessment Amount	City's Valuation without LID Improvements	Special Benefit Percentage
\$2,106,827	\$167,975,000	3.2%

1 265. Initially, hotels received an assessment on personal property, but no other
2 property type did. LID_005636. Of the total assessment on this hotel, \$67,738 is
3 attributable to the value of Seattle Waterfront Marriott's personal property. LID_015097.
4

5 266. On remand, the City's appraiser recommended the personal property
6 assessment be removed from remanded hotels. However, because this hotel was not
7 remanded, Seattle Waterfront Marriott's assessment on personal property was still included
8 in its final assessment. LID_015257-8. Seattle Waterfront Marriott did not receive notice
9 the LID assessment extended to personal property, even though its personal property has a
10 separate tax parcel number. LID_005304-07.
11

12 267. Seattle Waterfront Marriott presented expert testimony on three main points:
13 (1) Mr. Peter Shorett, a licensed MAI designated appraiser, provided appraisal reviews and
14 testified that the City's study did not provide the necessary evidence to provide credible
15 opinions of property value increases after the LID improvements are in place and that the
16 anticipated special benefits were too small, remote and speculative to be quantified; (2) Mr.
17 Anthony Gibbons, a licensed MAI designated appraiser, prepared an appraisal review and
18 testified that the comparisons in Mr. Macaulay's report were hypothetical, and too small,
19 remote and speculative to be measured, and also provided an analysis discounting Mr.
20 Macaulay's anticipated future special benefit to present value; and (3) Clayton Rash, the
21 vice president of property tax for Ashford Hospitality for the hotel with 20 years of real
22 estate assessment and valuation experience and 15 years of experience in the hospitality
23 industry, testified that the LID Improvements would not increase the value of the hotel.
24 LID_007435-7; LID_013837-43; LID_008398-8404. Seattle Waterfront Marriott also relied
25 on the testimony of Dr. John Crompton and GIS analysis of Dr. Ellen Kersten to show that
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1 the Seattle Waterfront Marriott's is more than 500 feet from the LID's primary park
2 improvements. LID_002616-8; LID_008364-89.

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4 268. Seattle Waterfront Marriott's primary witness with respect to the
5 disproportionality was Clayton Rash. Mr. Rash testified regarding Seattle Waterfront
6 Marriott, the neighborhood surroundings, the hotel's primary competitors, and the
7 competitive disadvantage imposed upon this hotel by the City's disproportionate assessment
8 (3.2%) given that competitor hotels were assessed an average of 0.92%. He also testified
9 regarding the impossibility of meeting the City's revenue projections for the hotel, and the
10 impact of COVID-19 on the Seattle Waterfront Marriott. LID_008398-8404.

11 269. Mr. Gibbons, Mr. Reid Shockey and Mr. Richard Shiroyama presented
12 testimony and evidence that the City's assessment should have accounted for risks
13 associated with the delivery of the LID. LID_001183-89; LID_001123-24.

14 270. Mr. Gordon, another licensed appraiser, also provided testimony as to the
15 severity of COVID-19 on the value of hotels, with strong evidence showing that the values
16 dropped by 10-15% as a result of the outbreak when compared with values as of October
17 2019 and January 2020. LID_019051- LID_019059; LID_015261. The summary of Seattle
18 Waterfront Marriott's expert evidence and testimony regarding Seattle Waterfront Marriott's
19 assessment, if the assessment is not annulled, is as follows:

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City's Assessment	Remove Value of Personal Property (-\$67,738)	Discount for Covid Impact (12.5%)	5 Year Discount for Time Value of Money	Proportionality Adjustment To Align With Competitor Hotels (0.92%) and Personal Property
\$2,106,827	\$2,039,089	\$1,784,203	\$606,629	\$586,238 Or \$512,958 (w/ COVID)

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1 **SHG Hotel**
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3 271. The SHG Hotel property is the Four Seasons, a high-end hotel located at
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5 1321 1st Ave, Seattle, Washington. The parcel is specific to the hotel and the building has a
6
7 garage, small retail space, and high-end condos which all have their own parcel numbers.
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9 272. SHG Hotel timely appealed the City's imposition of an initial \$1,676,215
10
11 Waterfront LID Assessment on King County Parcel No. 6094670030. The City's witnesses
12
13 testified to the method of the 2019 Study and the special benefits assigned to SHG Hotel.
14
15 LID_003170-71. A summary of the City's findings are provided in the following chart:
16

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City's Assessment Amount	City's 2019 Valuation without LID Improvements	Special Benefit Percentage
\$1,676,215	\$142,639,000	3.00%

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23 273. Initially, hotels received an assessment on personal property, but no other
24
25 property type did. LID_005636. The City's imposed assessment for this hotel also included
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27 \$75,029 for personal property. No other property type received an assessment on personal
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29 property. LID_014821.
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31 274. On remand, the City's appraiser recommended the personal property
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33 assessment be removed from remanded hotels. However, because this hotel was not
34
35 remanded, SHG Hotel's assessment on personal property was still included in its final
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37 assessment. LID_015257-8. SHG Hotel did not receive notice the LID assessment extended
38
39 to personal property, even though personal property has a separate tax parcel number.
40
41 LID_004889-92.
42

43 275. SHG Hotel presented expert testimony on two main points: (1) Mr. Peter
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45 Shorett, a licensed MAI designated appraiser, provided appraisal reviews and testified that
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47 the City's study did not provide the necessary evidence to provide credible opinions of

1 property value increases before and after the LID improvements are in place and that the
2 anticipated special benefits were too small, remote and speculative to be quantified; and (2)
3
4 Mr. Anthony Gibbons, a licensed MAI designated appraiser, prepared an appraisal review
5 and testified that the comparisons in Mr. Macaulay's report were hypothetical, and too
6
7 small, remote and speculative to be measured, and also provided an analysis discounting Mr.
8
9 Macaulay's anticipated future special benefit to present value (LID_007435-7; LID_013837-
10
11 43). SHG Hotel also relied on the testimony of Dr. John Crompton and GIS analysis of Dr.
12
13 Ellen Kersten to show that the hotel is more than 500 feet from the LID's primary park
14
15 improvements. LID_007633-38; LID_008364-89.
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18 276. SHG Hotel presented witness testimony from property representative
19 Angelica Palladino. Ms. Palladino testified regarding SHG Hotel, the neighborhood
20
21 surroundings, the impossibility of meeting the City's revenue projections in Mr. Macaulay's
22
23 spreadsheet, and the impact of COVID-19. LID_008390-95.
24
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26 277. Mr. Gibbons, Mr. Reid Shockey and Mr. Richard Shiroyama presented
27
28 testimony and evidence that the City's assessment should have accounted for risks
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30 associated with the delivery of the LID. LID_001183-89; LID_001123-24.
31
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33 278. Mr. Gordon, another licensed appraiser, also provided testimony as to the
34
35 severity of COVID-19's impact on the value of hotels, with strong evidence showing that
36
37 the values quickly dropped by 10-15% as a result of the outbreak when compared with
38
39 values as of October 2019 and January 2020. LID_019051- LID_019059; LID_015261.
40
41 SHG Hotel also presented testimony certain LID improvements, like the Overlook Walk, are
42
43 unnecessary because the building already has waterfront access via the Union Street stairs.
44
45 LID_001970-72. The summary of SHG Hotel's expert evidence and testimony regarding
46
47 SHG Hotel's assessment, if the assessment is not annulled, is as follows:

City's Assessment	Remove Value of Personal Property (-\$75,029)	Discount for Covid Impact (12.5%)	5 Year Discount of Assessment for Time Value of Money	Overlook Walk Discount
\$1,676,215	\$1,601,186	\$1,401,038	\$476,353	\$333,447

SHG Garage

279. The SHG Garage property is a garage located at 1321 1st Ave, Seattle, Washington. The parcel is the garage in the Four Seasons development, which provides parking for the high-end hotel and co-located high-end condos.

280. SHG Garage timely appealed the City's imposition of an initial \$132,436.00 Waterfront LID Assessment on King County Parcel No. 6094670010. The City's witnesses testified as to the method of the 2019 Study and the special benefits assigned to SHG Garage. LID_003170-71. A summary of the City's findings are provided in the following chart:

City's Assessment Amount	City's 2019 Valuation without LID Improvements	Special Benefit Percentage
\$132,436	\$11,280,000	3.00%

281. SHG Garage presented the following expert testimony: (1) a restricted appraisal and appraisal review by Mr. Peter Shorett, an MAI licensed appraiser ; and (2) an appraisal analysis by Mr. Anthony Gibbons, an MAI licensed appraiser. LID_007633-38; LID_013837-43.

282. SHG Garage also presented witness testimony from property representative Angelica Palladino. Ms. Palladino provided testimony regarding SHG Garage, the

1 neighborhood surroundings, the inability for the garage to monetize an increase in tourists,
2
3 and the impact of COVID-19. LID_008390-95.

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5 283. SHG Garage also presented testimony and evidence that the City's
6
7 assessment should have accounted for risks associated with the delivery of the LID
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9 Improvements including permitting risk, construction risk, general economic risk, and any
10
11 special damages associated with interim construction. LID_001183-89; LID_001123-24. In
12
13 fact, SHG Garage anticipates additional garage management costs if tourism actually
14
15 increases. Additionally, SHG Garage presented evidence that the City's appraiser failed to
16
17 discount the anticipated 2024 benefit to account for the time value of money. LID_00118-
18
19 19. SHG Garage also presented testimony certain LID improvements, like the Overlook
20
21 Walk, are unnecessary because the building already has waterfront access via the Union
22
23 Street stairs. LID_001970-72. The summary of SHG Garage's expert evidence and
24
25 testimony regarding SHG Garage's assessment, if the assessment is not annulled, is as
26
27 follows:

City's Market Value without LID Improvements	Discount for Covid Impact (10%)	COVID Special Benefit Adjustment	5 Year Discount for Time Value of Money	Overlook Walk Discount
\$11,280,000	\$7,896,000	\$92,810	\$31,555	\$22,089

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35 **SHG Retail**

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37 284. The SHG Retail property is a small retail space located at 1321 1st Ave,
38
39 Seattle, Washington associated with the Four Seasons Hotel. The parcel is confined to a
40
41 retail space, even though the building also includes high-end condos, a high-end hotel, and a
42
43 garage.
44
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1 285. SHG Retail timely appealed the City's imposition of an initial \$31,346
2
3 Waterfront LID Assessment on King County Parcel No. 6094670020. The City's witnesses
4
5 testified to the method of the 2019 Study and the special benefits assigned to SHG Retail.
6
7 LID_003170-71. A summary of the City's findings are provided in the following chart:

City's Assessment Amount	City's 2019 Valuation without LID Improvements	Special Benefit Percentage
\$31,346	\$2,676,000	2.99%

14 286. SHG Retail presented the following expert testimony: (1) a restricted
15
16 appraisal and appraisal review by Mr. Peter Shorett, an MAI licensed appraiser ; and (2) an
17
18 appraisal analysis by Mr. Anthony Gibbons, an MAI licensed appraiser. LID_007633-38;
19
20 LID_013837-43.

22 287. SHG Retail also presented witness testimony from property representative
23
24 Angelica Palladino. Ms. Palladino provided testimony regarding SHG Retail, the
25
26 neighborhood surroundings, the inability for the retails space to monetize an increase in
27
28 tourists, and the impact of COVID-19. LID_008390-95.

30 288. SHG Retail also presented testimony and evidence that the City's assessment
31
32 should have accounted for risks associated with the delivery of the LID Improvements
33
34 including permitting risk, construction risk, general economic risk, and any special damages
35
36 associated with interim construction. LID_001183-89; LID_001123-24. Additionally, SHG
37
38 Retail presented evidence that the City's appraiser failed to discount the anticipated 2024
39
40 benefit to account for the time value of money. LID_00118-19. SHG Retail also presented
41
42 testimony certain LID improvements, like the Overlook Walk, are unnecessary because the
43
44 building already has waterfront access via the Union Street stairs. LID_001970-72. The
45
46
47

summary of SHG Retail's expert evidence and testimony regarding SHG Retail's assessment, if the assessment is not annulled, is as follows:

City's Market Value without LID Improvements	Discount for Covid Impact (10%)	COVID Special Benefit Adjustment	5 Year Discount for Time Value of Money	Overlook Walk Discount
\$2,676,000	\$1,873,200	\$21,944	\$7,461	\$5,223

RRRR Investments

289. The RRRR Investments properties are high end condominiums located at 1521 2nd Ave, Units 3800 and 3802, Seattle, Washington. The parcels have extensive views of the Olympic mountains and Elliot Bay, a large private deck, Unit 3802 has a view of Mount Rainer, and the westerly views are protected. The parcels are more than 500 feet away from the waterfront.

290. RRRR Investments timely appealed the City's imposition of an initial \$41,245 Waterfront LID Assessment on King County Parcel No. 2538831460 (Unit 3800) and \$44,084 Waterfront LID Assessment on King County Parcel No. 2538831480 (Unit 3802). A summary of the City's findings are provided in the following chart:

Unit	City's Assessment Amount	City's 2019 Valuation without LID Improvements	Special Benefit Percentage
3800	\$41,245	\$3,508,830	2.70%
3802	\$44,084	\$3,750,300	2.70%

291. There is no property-specific report or spreadsheet for these condos, both of which received the exact same special benefit percentage as every other condo in the building. The City's imposed special benefit percentage of 2.70% was applied to all units in the building. LID_005595-97.

1 292. RRRR Investments presented the following expert testimony: (1) a restricted
2 appraisal and appraisal review by Mr. Peter Shorett, an MAI licensed appraiser ; and (2) an
3 appraisal review by Mr. Anthony Gibbons, an MAI licensed appraiser. LID_ LID_016176-
4 218; LID_013837-43.
5
6

7
8 293. RRRR Investments presented witness testimony from property representative
9 Bryon Madsen. Mr. Madsen provided testimony regarding RRRR Investments' properties,
10 the neighborhood surroundings, the relevance of the LID Improvements in the unique
11 market segment for high-end properties, and the impact of COVID-19. LID_001949-
12 001960.
13
14

15 294. RRRR Investments also presented testimony and evidence that the City's
16 assessment should have accounted for risks associated with the delivery of the LID
17 Improvements including permitting risk, construction risk, general economic risk, and any
18 special damages associated with interim construction. LID_001183-89; LID_001123-24.
19 Additionally, RRRR Investments presented evidence that the City's appraiser failed to
20 discount the anticipated 2024 benefit to account for the time value of money. LID_003198.
21 The summary of RRRR Investments' expert evidence and testimony regarding RRRR
22 Investments' assessment, if the assessment is not annulled, is as follows:
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Unit	City's Market Value without LID Improvements	Discount for Covid Impact (10%)	COVID Special Benefit Adjustment	5 Year Discount for Time Value of Money
3800	\$3,898,700	\$3,508,830	\$37,119	\$12,620
3802	\$4,167,000	\$3,750,300	\$39,673	\$13,489

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296. Sound Vista timely appealed the City’s imposition of an initial \$122,412 Waterfront LID Assessment on King County Parcel No. 6094680050. A summary of the City’s findings are provided in the following chart:

297. There is no property-specific report or spreadsheet for these condos, which received the exact same special benefit percentage as every other condo in the building. The City's imposed special benefit percentage of 3% was applied to all units in the building.

LID_005595-97.

299. Sound Vista presented witness testimony from property representative Greg Vik. Mr. Vik provided testimony regarding Sound Vista, the neighborhood surroundings, and the impact of COVID-19. LID1965-76.

FINDINGS OF FACT AND CONCLUSIONS OF LAW – 72

1 including permitting risk, construction risk, general economic risk, and any special damages
2 associated with interim construction. LID_001183-89; LID_001123-24. Additionally,
3 Sound Vista presented evidence that the City's appraiser failed to discount the anticipated
4 2024 benefit to account for the time value of money. LID_003198. Sound Vista also
5 presented testimony certain LID improvements, like the Overlook Walk, are unnecessary
6 because it already had waterfront access via the Union Street stairs. LID_001970. The
7 summary of Sound Vista's expert evidence and testimony regarding Sound Vista's
8 assessment, if the assessment is not annulled, is as follows:
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City's Market Value without LID Improvements	Discount for Covid Impact (10%)	COVID Special Benefit Adjustment	5 Year Discount for Time Value of Money	Removal of Overlook Walk
\$10,413,900	\$9,372,510	\$110,164	\$37,456	\$26,219

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United Way

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29 301. The United Way property is an office building of historic significance located
30 at 720 2nd Ave., Seattle, Washington. The property is occupied solely by United Way for
31 non-profit human services.
32

33
34 302. United Way timely appealed the City's imposition of an initial \$139,097
35 Waterfront LID Assessment on King County Parcel No. 0939000240.
36
37

38
39 303. Following the close of the record before the Hearing Examiner, the City
40 submitted several amendments to the special benefit estimates for several properties.
41 LID_000827. For United Way, the City concluded that the property sold its air rights,
42 which was not considered in the initial assessment analysis. The Hearing Examiner
43 recommended a remand to allow the City to make changes to the assessment. LID_000827.
44
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1 304. ABS provided a revised assessment for United Way of \$81,928.

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3 LID_010933. A summary of the City's findings are provided in the following chart:

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City's Initial Assessment Amount	City's Revised Assessment Amount	City's Valuation without LID Improvements	Special Benefit Percentage
\$139,097	\$81,928	\$13,920,000	1.50%

10 305. Throughout its appeal, United Way presented the following expert testimony:

11
12 (1) a restricted appraisal and appraisal review by Mr. Peter Shorett, a licensed appraiser ;
13
14 and (2) an appraisal review by Mr. Anthony Gibbons, a licensed appraiser. (LID_013837-
15
16 43; LID_013845-82; LID_013887-901).

17
18 306. United Way presented witness testimony from property representative Mr.
19
20 Dave Brown. Mr. Brown provided testimony regarding the United Way building, the
21
22 neighborhood surroundings, and the impact of COVID-19. (LID_001982-88).

23
24 307. United Way also presented testimony and evidence that the City's assessment
25
26 should have accounted for risks associated with the delivery of the LID Improvements
27
28 including permitting risk, construction risk, general economic risk, and any special damages
29
30 associated with interim construction. (LID_001183-89; LID_001123-24). Additionally,
31
32 United Way presented evidence that the City's appraiser failed to discount the anticipated
33
34 2024 benefit to account for the time value of money. (LID_00118-19). The summary of
35
36 United Way's expert evidence and testimony regarding United Way's assessment, if the
37
38 assessment is not annulled, is as follows:
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City's Market Value without LID Improvements	Discount for Covid Impact (10%)	Multiplying the Previous Column by Special Benefit Percentage and 39.18%	5 Year Discount for Time Value of Money Off
\$13,920,000	\$12,528,000	\$73,627	\$25,033

308. United Way also asserted that, as a long term holding of a human services non-profit, it will, in fact, receive no special property value benefit from the LID Improvements, and its assessment should be reduced to zero as an equitable consideration.

309. The City's witnesses testified to the method of the mass appraisal and the special benefits assigned to United Way. (LID_003170-71).

Victor and Mary Moses

310. Appellants Victor and Mary Moses ("Moses") own real property at: 1521 Second Ave. Apt. 2304, Seattle, WA 98101, King County Tax Parcel No. 2538830850 (the "Moses Property"). *See* Final Assessment Roll (LID_000715). Moses acquired their property in 2011.

311. The Moses Property is a condominium residence on the 23rd floor of a 38-story high rise building. The Moses Property has a view of the downtown stadiums, Mt. Rainer, the Puget Sound, and the Olympic Mountains, as well as a full-time concierge, maintenance staff, rooftop decks, exercise and meeting facilities, along with parking garages that hold 297 places for the building's 143 residences. *See* portion of Peter Shorett Appraisal Review dated 10/01/2019 (LID_10/01/2019). The Moses Property is more than 500' away from the waterfront.

312. Moses timely appealed the City's imposition of the \$25,519.00 LID assessment on their property.

1 313. The following table reflects the 2019 Study’s estimated assessments on the
2
3 Moses Property, which was adopted by the Hearing Examiner and affirmed by the City
4
5 Council:

6

City’s Final Assessment Amount	City’s Valuation Without LID Improvements	City’s Special Benefit Percentage
\$25,519.00	\$2,412,200	2.7%

9

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11 314. No individual spreadsheets or property-specific reports were prepared for
12
13 residential condominium buildings (let alone for individual condominiums). The City
14
15 applied the same special benefit percentage (2.7%) to every residential condominium within
16
17 the Moses building (LID_005595-97).
18

19 315. The City argued this uniform application was done to account for “fractional
20
21 ownership” and to ensure proportionality. (*See* City Resp. Moses Specific Brf. at pg. 3 lines
22
23 1-4 citing Third Declaration of Robert Macaulay ¶¶ 3–8). However, the Court finds that this
24
25 argument does not logically follow, as fractional ownership of the condominiums in the
26
27 Moses building is determined by building’s declaration of condominium and is based on
28
29 square footage.¹⁴
30

31 316. The uniform application of a constant percentage presumes that every
32
33 component of the “Before” value of a residence (such as proximately to amenities, view
34
35 premiums, etc.) is increased by that percentage, as well as any value added by the
36
37 hypothetical WSDOT Improvements.
38

39 317. In support of their appeal, Moses relied upon the following expert testimony:
40
41 (1) an appraisal review by Mr. Peter Shorett, licensed appraiser, together with his
42
43 subsequent testimony; and (2) the materials and testimony provided by Dr. John Crompton,
44

45
46
47 ¹⁴ Declarations to the effect were readily available to view in the KCA files provided to City Clerk (<http://clerk.seattle.gov/search/clerk-files/321593>)

1 world renowned park valuation expert. LID_12025-012094; LID_002069-002074;
2
3 LID_008636-008638; LID_002646-002647.

4
5 318. In his appraisal review, Mr. Shorett concluded the 2019 Study was
6
7 misleading and did not provide necessary evidence to provide credible opinions of property
8
9 value increases before and after the LID values in place, and that the 2019 Study failed to
10
11 provide the proper support to conclude that the LID Improvements provide special benefits
12
13 to properties in the LID boundary area, in contrast to the more common general benefits that
14
15 park improvements typically create for the benefit of the larger community and region.
16
17 LID_012031.

18
19 319. Mr. Shorett's appraisal review for Moses also provided an alternative
20
21 analysis and calculation of the potential benefits the Moses Property could receive from the
22
23 LID Improvements, accepting the City's "Before" valuation of the Moses Property for the
24
25 purpose of the appraisal review. LID 012042 – 012043.

26
27 320. This alternative analysis and calculation was not considered by the Hearing
28
29 Examiner. *See* LID_000855 (finding that Mr. Shorett's appraisal review "did not provide
30
31 evidence about the current value of specific properties and did not calculate or quantify the
32
33 special benefits that would accrue to the concerned properties...").

34
35 321. Dr. Crompton concluded that Mr. Macaulay misinterpreted Dr. Crompton's
36
37 work in critical ways and testified that the incremental effect of "park" improvements on the
38
39 value of properties that already have high view premiums – such as the Moses Property – is
40
41 likely to be very small or non-existent. LID_016808.

42
43 322. Victor Moses also presented and relied upon his own evaluation and analysis
44
45 of the range of potential special benefits for his Property where he concluded the 2019 Study
46
47 was flawed in several respects. LID_012069 -012088.

1 323. Victor Moses' evaluation was reviewed by appraiser Peter Shorett who
2
3 concurred with Moses' analysis. LID_012042.

4
5 324. Further, Mr. Moses's evaluation analyzed a contrast between their current
6
7 circumstances and the conditions of the proposed Overlook Walk, pointing out the
8
9 misrepresentations in the City's Overlook Walk rendering, and demonstrating how the
10
11 Overlook Walk would not provide a special benefit to the Moses Property due to already
12
13 existing access to the waterfront. LID_012079.

14
15 325. This evidence does not appear to have been considered by the Hearing
16
17 Examiner who found "objectors provided no evidence analyzing a contrast between their
18
19 current circumstances and the proposed improvements [referring to the Overlook Walk]").
20
21 LID_000839

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23 326. On appeal to the City Council of the Examiner's Final Recommendations, the
24
25 Moses explicitly requested in briefing that the Committee confirm and/or attest that they had
26
27 reviewed his appeal materials. LID 011958.

28
29 327. The Committee did not enter such findings or attestation. Nor does it appear
30
31 from the record that the Committee were aware of the request, considered or discussion the
32
33 issue of whether they should either review or attest to reviewing Moses' materials.

34
35 328. The Court is aware of no law which would have required the Committee to
36
37 explicitly make such a finding.

38 **II. CONCLUSIONS OF LAW**

39 **A. Standard of Review**

40
41 329. The decision of the City Council "shall be final and conclusive, subject
42
43 however to review by the superior court upon appeal." RCW 35.44.200.
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1 330. Upon review by the Superior Court, “[t]he judgment of the court shall
2 confirm, unless the court shall find from the evidence that such assessment is founded upon
3 a fundamentally wrong basis and/or the decision of the council or other legislative body
4 thereon was arbitrary or capricious; in which event the judgment of the court shall correct,
5 change, modify, or annul the assessment insofar as it affects the property of the appellant.”
6
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10 RCW 35.44.250.
11

12 331. The Court’s duty is not to simply confirm the assessment, but rather to
13 conduct a careful review of the record to ensure that there is a legal and factual basis for the
14 assessment, and that the assessment is not the product of arbitrary or capricious action. Id.
15
16

17 332. RCW 35.44.250 sets forth both the basic procedure to appeal LID
18 assessments to superior court and the appropriate standards of review. The statute provides
19 two standards. The court shall “correct, change, modify, or annul the assessment” if (i) the
20 “assessment is founded upon a fundamentally wrong basis and/or” (ii) “the decision of the
21 council . . . was arbitrary or capricious.” RCW 35.44.250; *Hasit LLC v. City of Edgewood*,
22 179 Wn. App. 917, 934-935, 310 P.3d 163, 172 (Div 2, 2014).
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30 333. The “fundamentally wrong basis” standard refers to ““some error in the
31 method of assessment or in the procedures used by the municipality[.]”” *Bellevue Assocs. v.*
32 *City of Bellevue*, 108 Wn.2d 671, 675, 741 P.2d 993 (1987) (quoting *Abbenhaus v. City of*
33 *Yakima*, 89 Wn.2d 855, 859, 576 P.2d 888 (1978)).
34
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39 334. The “arbitrary or capricious” standard applies to the City Council’s
40 processes, including its decision to delegate appeals to the Hearing Examiner, the
41 Examiner’s processes, and the Council’s decision to rely on the Examiner’s
42 recommendation. See RCW 35.44.250.
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1 335. Although “an action taken after due consideration is not arbitrary or
2 capricious even though a reviewing court may believe it to be erroneous”, a City Council’s
3 decision regarding a LID assessment is “arbitrary or capricious” if the decision constitutes
4 “willful and unreasoning action, taken without regard to or consideration of the facts and
5 circumstances surrounding the action.” *Abbenhaus*, 89 Wn.2d at 858-59.
6
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10 336. Failure to decide all issues requiring resolution or to make any finding
11 whatsoever is arbitrary and capricious. *Cf.* RCW 34.05.570(3)(f).¹⁵
12
13

14 337. In applying these two standards, “courts may consider only the record
15 proceedings before the City Council.” *Hasit*, 179 Wn.2d at 935 .
16
17

18 338. In ruling on these issues, “[f]undamental errors should be ascertained as a
19 matter of law by reference to the transcript which plaintiff is required to certify.” RCW
20 35.44.230. That record should demonstrate, without reference to extrinsic evidence, whether
21 the statutes and ordinances or charters have been followed by the municipality.” *Cammack*
22 *v. City of Port Angeles*, 15 Wn. App. 188, 196-97, 548 P.2d 571 (Div 2, 1976).
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27 339. If a petitioner establishes a fundamental error “the court is limited to
28 nullification or modification only of those parcel assessments before it.” *Abbenhaus*, 89
29 Wn.2d at 859.
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34 340. The law allows cities to impose LID assessments only when a particular
35 property benefits from an increase in property value that is “actual, physical and material
36 and not merely speculative[.]” *Heavens v. King Cty. Rural Library Dist.*, 66 Wn.2d 558,
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45 ¹⁵ There is a minor difference in phrasing between “arbitrary or capricious” in RCW
46 35.44.250 and “arbitrary and capricious” in *Abbenhaus* and other relevant case law. This distinction
47 “is without significance.” *Hasit*, 179 Wn.2d at 935 n.6.

1 563, 404 P.2d 453 (1965). The LID improvement must “bring a benefit [to that property that
2 is] substantially more intense than is yielded to the rest of the municipality.” *Id.*
3

4
5 341. Unless rebutted, there is a presumption that there is a special benefit, and that
6 that the assessment is proportionate and fair. *See Abbenhaus v. Yakima*, 89 Wn.2d 855,
7 860–61, 576 P.2d 888 (1978).
8
9

10
11 342. However, “[a] presumption is not evidence and its efficacy is lost when the
12 other party adduces credible evidence to the contrary.” *In re Indian Trail Trunk Sewer*
13 *Sys.*, 35 Wn. App. 840, 843, 670 P.2d 675 (Div. 3, 1983); *Hamilton Corner I, LLC v. City of*
14 *Napavine*, 200 Wn. App. 258, 268, 402 P.3d 368 (Div 2, 2017), *as amended* (Sept. 12,
15 2017). *See also, Bates v. Bowles White & Co.*, 56 Wash.2d 374, 378, 353 P.2d 663
16 (1960); *Bradley v. S.L. Savidge, Inc.*, 13 Wash.2d 28, 123 P.2d 780 (1942); *Key v. Cascade*
17 *Packing, Inc.*, 19 Wash.App. 579, 583, 576 P.2d 929 (1978); *Tire Towne, Inc. v. G & L*
18 *Service Co.*, 10 Wash.App. 184, 188, 518 P.2d 240 (Div 2, 1973); *State v. Fitzpatrick*, 5
19 Wash.App. 661, 667, 491 P.2d 262 (Div 2, 1971); *see also Amend v. Bell*, 89 Wash.2d 124,
20 127, 570 P.2d 138 (1977).
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30 343. As aptly re-stated by Judge Green of Division 3 of the Washington State Court of
31 Appeals:
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35 Presumptions are the “ ‘bats of the law, flitting in the twilight but disappearing in
36 the sunshine of actual facts.’ ” *Mockowik v. Kansas City, St. J. & C.B.R. Co.*, 196
37 Mo. 550, 94 S.W. 256, 262 (1906). The sole purpose of a presumption is to establish
38 which party has the burden of going forward with evidence on an issue. *Bank of*
39 *Wash. v. Hilltop Shakemill, Inc.*, 26 Wash.App. 943, 948, 614 P.2d 1319 (1980). **The**
40 **ultimate burden of showing that land within an LID is specially benefited**
41 **remains with the City.**
42
43

44 *In re Indian Trail Trunk Sewer Sys.*, 35 Wn. App. At 843. (emphasis supplied).
45
46
47

1 344. The City’s reliance on the presumption to reject evidence to the contrary of its
2
3 desired conclusions is inappropriate use of the presumption and makes the action of the
4
5 Hearing Examiner and the City Council fundamentally wrong as well as arbitrary and
6
7 capricious.
8
9

10 **B. The City’s Method of Assessment Was Fundamentally Flawed.**
11

12 **1. It was fundamentally flawed and speculative to predict minor**
13 **property value increases five years into the future, where both current**
14 **and future valuations were complicated by the Global COVID**
15 **Pandemic. Rejecting evidence of the impact of the Global Pandemic and**
16 **refusing to consider its effect on valuations was arbitrary and capricious.**
17

18
19 345. While appraisal standards allow reliance on hypothetical conditions and
20
21 extraordinary assumptions, a LID appraisal must nevertheless comply with legal principles
22
23 governing LID assessments. *See Bellevue Plaza, Inc. v. City of Bellevue*, 121 Wn. 2d 397,
24
25 411, 851 P.2d 662, 669 (1993) (expert’s opinion on market value must be based upon legal
26
27 principles governing LIDs).
28

29 346. One such legal principle is that when calculating a special benefit, “[f]air
30
31 market value cannot include a speculative value.” *Id.* “When an appraiser uses a factor
32
33 ‘beyond the knowledge of reasonable certainty’, it becomes pure speculation.” *Id.* (quoting
34
35 *In re Local Imp.* 6097, 52 Wn.2d 330, 335–36, 324 P.2d 1078 (1958)).
36

37 347. The Washington Supreme Court and State Legislature have expressly
38
39 acknowledged in the eminent domain context that the value of a special benefit is inherently
40
41 speculative prior to completion of the anticipated construction project. Accordingly, the
42
43 legislature has authorized condemnees to postpone the determination of special benefits in a
44
45 condemnation case until *after* construction of improvements. *See* RCW 8.25.220; *State v.*
46
47 *Green*, 90 Wn.2d 52, 55-56, 578 P.2d 855 (1978). “The separate valuation proceeding helps

1 insure against speculative special benefit offsets” for future improvements. *Green*, 90 Wn.2d
2 at 56.¹⁶
3

4 348. Further, while not a bright line rule, state LID guidance and the City’s code
5 provide a reference point and contemplate that market value will be determined within 90-
6 days of completion of the improvements or as of the date of the final assessment hearing.
7
8 SMC 20.04.070B.1; *see also* Local and Road Improvements Manual, 6th Ed., at 55
9 (LID_017363) (market value is typically estimated “as of the date of the final assessment
10 roll hearing”). One reason valuation should follow completion (or near completion) of the
11 improvements is so that the impact on property values can be ascertained with reasonable
12 certainty.
13
14

15 349. What is speculative is fact specific; under these circumstances and facts, the
16 proposed assessments are speculative. The 622 days lag between the 2019 Study and the
17 Council’s final assessment, and the roughly 6 years until completion of improvements (~ 25
18 times longer than City code anticipates), is a significant deviation from reference points
19 provided in the LID Manual and City code. Under the circumstances, this time lag
20 undermined fundamental assumptions in the 2019 Study that formed the basis for the special
21 benefit estimates.
22
23

24 350. Extraordinary assumptions in the 2019 Study were already proven false at the
25 time the Examiner prepared his report and well before the Council’s vote approving the final
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35 ¹⁶ In some contexts, Mr. Macaulay relied on eminent domain law to illustrate why interim
36 disruptions are “not compensable, so it’s not something we consider.” *See* 2/27/2020 (Macaulay
37 Depo.) at 186:2-12 (LID_017112). However, he has otherwise argued that eminent domain law is
38 inapplicable. The Examiner found that eminent domain law is inapposite for purposes of determining
39 whether general benefits should have been considered. *See* Examiner’s Final Recommendation at
40 118 (LID_000964).
41
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1 assessment roll. The intervening Global COVID pandemic rendered October 2019
2
3 hypothesized valuations stale and an improper basis for assessing Appellants' properties.

4
5 351. Concrete strikes in December 2021 and Global supply chain issues also
6
7 pushed back the completion date (and any anticipated special benefits) by at least a year.

8
9 352. The Examiner's failure to consider how COVID and other market forces
10
11 might, and did, impact the validity and speculative nature of the 2019 Study, and specifically
12
13 his understanding of Appellants' request for relief from impacts from COVID as solely a
14
15 "political" question, was arbitrary and capricious. These include the following erroneous
16
17 findings:

- 18
19 • "Objectors offered no evidence that any potential changes would, in fact,
20 alter that amount of special benefit provided by the Improvements.
21 Conjecture of potential changes is not adequate to meet Objectors' burden.
22 Absent credible evidence that potential changes would impact the special
23 benefit analysis, the assessments are valid so long as the LID's fundamental
24 purpose is accomplished." Examiner's Final Recommendations at 115
25 (LID_000961).
26
- 27
28 • "The COVID-19 pandemic does not have any relevancy with concern to the
29 issues addressed in the special assessment hearing, which is to determine if
30 the City committed an error in the calculation of special assessments or
31 valuation. The pandemic has no impact on the ABS appraisals in the Special
32 Benefit Study because the date of valuation, October 1, 2019, predated the
33 virus and appraisers are not required to predict unforeseeable events as part
34 of their value analyses. The question of providing any relief to property
35 owners on the basis of impacts from COVID-19 is a political question, not a
36 legal issue on which the Hearing Examiner should provide a
37 recommendation." *Id.* at 124 (LID_000970)
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40 353. Regarding whether granting relief from impacts from COVID was a
41
42 "political question", this Court understands in some contexts this may accurate—e.g., in
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44 providing eviction relief.
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1 354. However, consideration of the Global COVID Pandemic is highly relevant to
2 the legal and factual questions presented to the City sitting as a Board of Equalization in
3 these appeals—i.e., whether the 2019 Study reflected actual Before values as of June 2021
4 and actual, non-speculative increases in property values anticipated from future
5 improvements. The failure of the Hearing Examiner to understand this essential reality and
6 to rebuff the issue as a “political question” puts into question the entirety of the analysis and
7 process that the Hearing Examiner purported to follow in approving the 2019 valuation
8 study.
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10 355. In light of these circumstances, and the legal standards governing LID
11 assessments, the Council finalized the assessments on a fundamentally wrong basis in June
12 2021 by relying on pre-COVID valuations in the 2019 Study, and Macaulay’s remand
13 testimony and refusing to consider and ignoring all evidence of market disruption and value
14 impact. The City Council, “sitting as a Board of Equalization”, does not have political
15 discretion to disregard its equalization obligations.
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17 356. Additionally, it is undisputed that Mr. Macaulay did not employ any
18 recognized discounting methods to account for the time value of money and the risks
19 associated with development.¹⁷ Appellants’ un rebutted evidence is that, after discounted
20 using standard techniques, the hypothesized benefits are significantly lower than the
21 assessments, and hence improper.
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23 357. The Court finds that the Council finalized the assessments on a
24 fundamentally wrong basis in June 2021 by relying on speculative valuations in the 2019
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44 ¹⁷ Doing so might have begun to address the legal requirement that LID assessments be non-
45 speculative. The Court notes that discounting analysis may have provided a possible way to account
46 for such risks while collecting assessments in earlier stages of construction. However, it did not
47 occur here.

1 Study and Macaulay’s remand testimony and by disregarding MAI testimony and other
2 evidence that anticipated 2024 benefits should have been discounted to present value to
3 reduce speculation and avoid overstatement. Failure to discount further renders the final
4 Waterfront LID assessments illegal.
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9 358. This Court concludes that Appellants’ LID assessments are speculative as a
10 matter of law and fail to comply with RCW 35.44.010 and RCW 35.44.047.
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13 **2. The findings of the Hearing Examiner were fundamentally flawed**
14 **to omit analysis of how WSDOT Improvements impacted property**
15 **values.**
16

17 359. The estimated property value increase to a particular property in a LID must
18 be actual, measurable, and special (as opposed to general). *Heavens*, 66 Wn.2d at 563.
19 Certain costs required to meet road design standards “may be general benefits” and should,
20 therefore, be excluded. *See* LOCAL AND ROAD IMPROVEMENT DISTRICTS MANUAL FOR
21 WASHINGTON STATE, 6th Ed. (Oct. 2009) at 58 (LID_008656) (co-authored by Mr.
22 Macaulay).
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29 360. Many Washington cases disallow LID assessments for improvements that go
30 beyond baseline requirements. For example, in *Appeals of Jones*, 52 Wn.2d 143, 324 P.2d
31 259 (1958), the Court held that property already adequately supplied with water and fire
32 protection was not specially benefited by installation of a new water main and fire hydrant
33 and could not be assessed. In *In re Shilshole Ave.*, 85 Wash. 522, 537, 148 P. 781, 786
34 (1915), an assessment levied to raise the grade of a road by 16 to 18 feet was held invalid
35 because the evidence showed that the properties would have benefitted equally from an
36 increase of only 9 feet. And in *Hasit*, 179 Wn. App. at 940, the court annulled the LID
37 assessments because the city built the pipes larger than was needed. Thus, “only that portion
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1 of the cost of the local improvement which is of special benefit to the property can be levied
2 against the property.” *In re Schmitz*, 44 Wn.2d 429, 433, 268 P.2d 436 (1954).
3

4 361. It is undisputed that that the Waterfront LID assessments should exclude any
5 value increase the WSDOT Improvements would have provided.
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8 362. It is also undisputed that Mr. Macaulay did not estimate the actual market
9 value of Appellants’ properties in October 2019, and he did not separately analyze any value
10 lift attributable to the WSDOT Improvements.
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13 363. Failure to document the market value impact of the WSDOT Improvements
14 was an additional fundamental flaw.
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17 364. It is undisputed that much of the anticipated increase in property values in
18 downtown Seattle related to the waterfront work derived from removal of the Viaduct. For
19 any attempt to calculate a special benefit of the LID improvements to be non-speculative
20 and attempt to achieve any logical relationship to reality, it was essential to understand and
21 assess the impact of the WSDOT Improvements in order to remove the value of those
22 improvements from consideration. The LID does not get to assess special benefits for
23 improvements that the LID isn’t paying for.
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32 365. However, the record contains no documentation, allowing the Hearing
33 Examiner, the City Council, or this Court to assess Mr. Macaulay’s methods. That lack of
34 documentation makes it impossible to determine whether the remaining property value
35 increases were, indeed, actual, measurable, substantial, and special.
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40 366. If an appraiser uses current data to infer values, then the appraiser must
41 explain how he/she analyzed that data and other information to come up with the
42 hypothetical value. *See, e.g.*, 3/3/2020 (A. Gibbons) Hrg. Tr.) at 128:1-130:4 (LID_001192 -
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1 LID_001194). The Examiner did not make a finding on this specific argument, even though
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3 it was raised by Appellants. *See* Closing Brief at 17 (LID_017195).
4

5 367. Further, failure to provide any analysis on what general benefits may flow
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7 from the LID Improvements was error, given the breadth and public nature of the LID
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9 Improvements and the fact that benefits from WSDOT Improvements (which are considered
10
11 to be general) were required to be excluded.
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13 368. Failure to analyze the impact of the WSDOT Improvements on the Before
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15 values was a fundamental flaw, and the Examiner's failure to make a finding on this was
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17 arbitrary and capricious.
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19 **3. The assessments were fundamentally flawed to rely upon an**
20 **appraisal that does not comply with professional standards.**
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22 369. An expert's calculations and formulae must be generally accepted by other
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24 professionals in the field, capable of producing reliable results, and comply with basic legal
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26 requirements—"educated guesses" without more do not suffice. *Cf. Lake Chelan Shores*
27
28 *Homeowners Ass'n v. St. Paul Fire & Marine Ins. Co.*, 176 Wn. App. 168, 177-79 (Div 1,
29
30 2013) (expert testimony is inadmissible if formulas are untested and based on "educated
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32 guesses").
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34 370. Although appraisers may extrapolate and make inferences, they must do so
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36 from reliable, objective data. *Cf. Mississippi Transp. Com'n v. McLemore*, 863 So.2d 31,
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38 40-43 (Miss. 2003) (excluding appraisal testimony for lack of measurable data in
39
40 methodology). An appraiser's use of unusual methods that have not been taught in courses,
41
42 have a high rate of error, and are not subject to peer review are all indicia of unreliability.
43
44 *Id.* Further, an appraiser's terms of employment cannot dictate appraisal methods that are
45
46 otherwise meant to derive fair market value. *Cf. Chatterton v. Business. Valuation Rsch.*,
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1 *Inc.*, 90 Wn. App. 150, 157, 951 P.2d 353 (Div 3, 1998) (agreement to be bound by
2 appraisal will be set aside if appraisal was conducted on fundamentally wrong basis).
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5 371. Based on the undisputed evidence contained in the record before the Court,
6 the 2019 Study did not comply with USPAP Standards 1 and 2 governing direct property
7 appraisals. There is no property-specific report and very little property-specific detail
8 supporting the assessments in the 2019 Study or in Mr. Macaulay's files. Mr. Macaulay's
9 spreadsheets for each commercial property do not demonstrate compliance because *inter*
10 *alia* he testified that he did *not* use the spreadsheets to actually calculate special benefit.
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14 372. This Court further concludes that the 2019 Study did not comply with
15 USPAP standards 5 and 6 governing mass appraisals because Mr. Macaulay did not develop
16 a model structure that reflects characteristics affecting value, did not calibrate the model
17 structure to determine the contribution of the individual characteristics affecting value, and
18 did not review the mass appraisal results against actual sales/data to determine whether his
19 conclusions were reasonably justified.
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23 373. The Court notes that the record does not contain published (or other)
24 authority authorizing blending the USPAP standards in a hybrid "parcel-by-parcel" mass
25 appraisal that does satisfies either standard. There is no support in the record for finding that
26 an appraiser may choose which minimum standards to apply from the various USPAP rules;
27 these standards are established to ensure accurate, reliable and testable valuations. Further,
28 the Examiner's failure to address this particular claim was arbitrary and capricious, given
29 that the entire 2019 Study purported to have employed this "parcel-by-parcel" mass
30 appraisal approach.
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1 374. The Examiner’s summary conclusion that the 2019 Study “complied with the
2 requirements of USPAP including Standards 1, 2, 5, and 6” (Examiner’s Final
3 Recommendation at 14 (LID_000860)) was also arbitrary and capricious.
4

5 375. The fact that the Examiner concluded compliance with Standards 1 and 2,
6 suggests that the Examiner (understandably) lost track of the City’s witnesses shifting
7 claims—for example, the City’s own concession that “a parcel-by-parcel direct appraisal”
8 would not have been “economically feasible.” *See* 6/18/2020 Hrg. Tr. at 125:15-10
9 (LID_002824); Hamel Decl., ¶ 9 (LID_009817).
10
11

12 **4. The assessments were fundamentally flawed to apply a 0.4%-**
13 **3.2% percentage increase to each of Appellants’ properties without tying**
14 **this increase to any property-specific data.**
15

16 376. A LID assessment must be based on an actual, measurable special benefit to a
17 particular property that must “bring a benefit [to that property that is] substantially more
18 intense than is yielded to the rest of the municipality.” *Heavens*, 66 Wn.2d at 563.
19

20 377. In *Bellevue Plaza, Inc.*, 121 Wn.2d at 406, the Court found “several serious
21 flaws” in the appraisal, including that the appraiser “attache[d] a list of a number of land
22 sales within the [area], but ma[de] no attempt to characterize any one, or all of them, as
23 comparable to any particular property within the LID.” (Emphasis added.) That Court
24 concluded that the appraisal’s opinions “were clearly grounded on a fundamentally wrong
25 basis and must be disregarded.” *Id.* at 413.
26

27 378. It is undisputed that Mr. Macaulay’s spreadsheets have formulas that multiply
28 hypothesized “Before” values by very small percentage changes (*e.g.*, 0.2%-0.45% for the
29 Hyatt Regency) to calculate a high/low range of hypothetical “After” values. However, the
30 record does not contain documentation on how he came up with those percentage increases.
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1 Then, the high/low “After” values were reconciled through some undisclosed process of
2 averaging, but there is no documentation or record explaining how this apparent averaging
3 was calculated or applied.
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6 379. The parties dispute whether Mr. Macaulay relied on formulas in the
7 spreadsheets. The Examiner accepted the City’s testimony that formulas were not relied
8 upon. However, based on Mr. Macaulay’s testimony that changes in hotel room rates result
9 in changes to “After” values, and a careful review of the record (including the spreadsheets)
10 this Court finds that the formulas were used to calculate “After” values.
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13 380. The Court concludes that the City improperly assigned (rather than
14 measured) special benefits.
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17 381. The City claims general reliance on academic studies mentioned in the 2019
18 Study, but did not provide any specific measurements, industry standard, academic study or
19 literature, or other source to explain the very precise micro percentage increases/decreases in
20 the spreadsheets for Appellants’ commercial properties or the uniform special benefit
21 percentage increases for the condos.
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24 382. Instead, Dr. Crompton, whose study was cited in the 2019 Study as a
25 principal empirical source for discerning property value increases due to park
26 improvements, provided testimony that contradicted conclusions in the 2019 Study.
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29 383. Because the City “ma[de] no attempt to characterize any one, or all of [the
30 studies or data], as comparable to any particular property within the LID,” the 2019 Study’s
31 appraisal opinions were founded on a fundamentally flawed basis. *Bellevue Plaza, Inc.*, 121
32 Wn.2d at 406.
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1 384. The City’s final assessments also failed to exclude costs for certain of the
2 LID Improvements that were either too far from or potentially detrimental to Appellants’
3 properties.
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6 **C. The City’s Process For Assessing Appellants’ Properties Was Arbitrary**
7 **and Capricious.**
8

9 **1. The City instructed its appraiser to hypothesize values far in**
10 **advance of completion of the LID Improvements and to treat all**
11 **improvements as continuous.**
12

13 385. It was arbitrary and capricious for Mr. Macaulay to base his hypothetical
14 valuations on designs less than 30 percent complete—something he has never done before—
15 because the City “wanted to get moving ahead with the project” and gave him assurances
16 that designs would not change. *See* 6/23/2020 Hrg. Tr. at 16:1-22, 17:22-18:2, 66:17-25
17 (LID_003137, LID_003138 - LID_003139, LID_003187).
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20 386. The record established that Mr. Macaulay accepted the City’s representations
21 and performed no independent investigation to determine the reliability of the City’s
22 estimates for completion, and that proposed designs or cost estimates were not going to
23 materially change. *Id.* at 78:14-79:13 (LID_003199 - LID_003200).
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26 387. Mr. Macaulay also did not consider what impact improvements in the south
27 (e.g., Pioneer Square) would have on properties along Denny Way to the north, and vice
28 versa, if any. When asked, he answered that this was “not the scope of the assignment”
29 because he was asked to look at all of the projects as a whole. *See* 6/23/2020 Hrg. Tr. at
30 30:3-8 (LID_003151). Yet, he admitted that the six components were not actually a
31 continuous project, and that he was viewing them together because the City staff asked him
32 to do so. *See* 6/25/2020 Hrg. Tr. at 27:18-28:5 (LID_003432 - 3433).
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1 388. Instructing the appraiser to hypothesize values this far in advance of
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3 completion of the LID Improvements and to treat completely separate improvements as one
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5 continuous improvement was arbitrary and capricious action by the City. These instructions
6
7 ultimately resulted in fundamentally flawed methods that made the final valuations
8
9 speculative.

10 389. The City Staff's instructions to Mr. Macaulay violated RCW 35.43.050. The
11
12 legislative body must either (1) **find** that the properties within the LID will benefit from the
13
14 improvements as a whole; or (2) the costs and expense of each component must be
15
16 "ascertained separately, as near as may be, and the assessment rates shall be computed on
17
18 the basis of the cost and expense of each unit." (RCW 35.43.050). The City Staff abrogated
19
20 this function of the legislative body. Neither required process was followed here.
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23 **2. The Hearing Examiner misapplied the presumption in favor of**
24 **LID assessments to disregard credible testimony from Appellants'**
25 **witnesses.**
26

27 390. The Hearing Examiner erred in applying the presumptions in favor of LID
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29 assessments by (i) applying the presumption to endorse Mr. Macaulay's methods; (ii)
30
31 disregarding Appellants' expert appraiser testimony regarding Mr. Macaulay's methodology
32
33 on grounds that Appellants' experts failed to provide an alternative special benefit
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35 calculation; and (iii) concluding that Appellants had not advanced sufficient testimony and
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37 evidence to rebut the presumption. These errors result in a finding that the action of the
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39 Hearing Examiner was arbitrary and capricious.
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41 391. The Presumption of correctness does not apply to specific methodological
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43 decisions made by the appraiser. RCW 35.44.250 states that a superior court reviewing the
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1 legality of a LID assessment court shall “correct, change, modify, or annul the assessment”
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3 if the “assessment is founded upon a fundamentally wrong basis. RCW 35.44.250.
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5 392. The Washington Supreme Court has explained: ““An expert’s opinion on the
6 market value of real estate must be based upon those legal principles which define the
7 factors which the expert can or cannot consider in reaching his expert opinion.”” *Bellevue*
8 *Plaza, Inc*, 121 Wn. 2d at 411 (quoting *Doolittle v. Everett*, 114 Wn.2d 88, 104, 786 P.2d
9 253 (1990)). In other words, the appraiser must estimate property value increases that are
10 actual, physical, material, non-speculative, and “substantially more intense” than what is
11 yielded to the general public. *See Heavens*, 66 Wn.2d at 563. And failure to do so deprives
12 the owner of property without due process in contravention of the Constitution. *Id.* at 564.
13
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15 393. This Court concludes that the presumption in favor of LID assessments does
16 not insulate the City’s appraisal methodology from judicial scrutiny, which is both
17 statutorily and constitutionally required.
18

19 394. Here, the Examiner’s application of the presumption in considering Mr.
20 Macaulay’s methodological decisions was legal error, and both fundamentally wrong and
21 arbitrary and capricious. *See, e.g.*, Examiner’s Final Recommendations at 124
22 (LID_000970) (noting the “presumption in favor of the City’s expert appraiser”).
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25 395. Experts do not need to provide an alternative special benefit calculation in
26 every case. The Examiner further erred in requiring Appellants to provide special benefit
27 expert testimony and an alternative special benefit proposal to rebut the presumption of
28 correctness. *See, e.g.*, Examiner’s Final Recommendations at 13 (LID_000857) (Appellants’
29 witnesses, “regardless of their expertise in the industry which they hail, did not present any
30 analysis concerning, or show any expertise in, analysis of special benefits”); *see also* City’s
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1 Response Br. at 29 (“Appellants’ experts, however, did not calculate the special benefit that
2 would accrue to any particular property.”).

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5 396. The Examiner’s recitation of the law governing the presumption states the
6 conclusion that expert testimony was required to dispute the existence of the purported
7 special benefit. However, his reasoning seems to also state that disputing the City’s basis
8 for valuing a particular property does not require expert testimony. Examiner’s Final
9 Recommendation at 113 (LID_000959).

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15 397. While not entirely clear, in application, it appears the Examiner seemed to
16 consider at least some of Appellants’ valuation testimony and evidence establishing current
17 market values for their properties, when it was provided.

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21 398. However, in every instance he simply disregarded Appellants’ expert and lay
22 testimony contesting the City’s method of estimating special benefit either because
23 Appellants’ witnesses (a) were not licensed appraisers, (b) did not provide an independent,
24 alternative special benefit analysis, (c) did not have expertise in preparing special benefit
25 studies. This misapplies the law and was fundamentally wrong and arbitrary and capricious.

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30 399. Expert evidence does not need to come from appraisers and, specifically,
31 there is no requirement “that appraisal evidence be presented, including before and after
32 values.” *Hasit, LLC v. City of Edgewood*, 179 Wn. App. 917, 947, 320 P.3d 163 (Div 2,
33 2014). As a matter of law, a qualified expert may simply point out that the assessment was
34 founded upon fundamentally wrong grounds “due to an error employed by the City
35 appraiser.” *Id.* (citing *Doolittle v. City of Everett*, 114 Wn. 2d 88, 106, 786 P.2d 253 (1990)).
36 The *Hasit* Court establishes: “A property owner, then, need not necessarily present her own
37 independent appraisal, or before and after values, to successfully challenge an LID
38 assessment.” *Id.*; see also *Kusky v. City of Goldendale*, 85 Wn. App. 493, 499, 933 P.2d 430
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1 (Div 3, 1997) (although appraiser did not submit appraisal, he provided expert opinion
2 showing that improvements actually diminished property's value).

3 400. It is correct that "evidence of appraisal values and benefits is necessary to
4 rebut these presumptions." *City of Seattle v. Rogers Clothing for Men, Inc.*, 114 Wn. 2d 213,
5 229–32, 787 P.2d 39, (1990). However, *Rogers* does not explicitly require an expert to
6 calculate an alternative special benefit estimate.

7 401. The facts of *Rogers* are distinguishable because "petitioning store owners
8 offered no evidence regarding values of their properties before and after the improvements."
9 *Id.* (emphasis added). Here, expert appraisers (e.g, Anthony Gibbons and Peter Shorett)
10 testified that it was too speculative to try to calculate any special benefit at this point, even if
11 it might ultimately accrue. *City of Seattle v. Rogers Clothing for Men, Inc.*, 114 Wn. 2d at
12 229, (fn27) cites to "[a] series of cases spell out the presumptions when property owners
13 challenge the amount they have been assessed under a special assessment scheme." These
14 cases include: *Abbenhaus v. Yakima*, 89 Wash.2d 855, 860–61, 576 P.2d 888
15 (1978); *Hansen v. Local Imp. Dist. 335* 54 Wash.App. 257, 773 P.2d 436 (Div 1, 1989); *In re*
16 *Ron Inv. Co.*, 43 Wash.App. 860, 863, 719 P.2d 1353 (Div 1, 1986); *Time Oil Co. v. Port*
17 *Angeles*, 42 Wash.App. 473, 479, 712 P.2d 311 (Div 2, 1985).

18 402. Although the *Hansen* court stated, "[t]he burden of proof shifts to the City
19 only after the challenging party presents expert appraisal evidence showing that the property
20 would not be benefited by the improvement." *Hansen v. Loc. Imp. Dist. No. 335*, 54 Wn.
21 App. 257, 262, 773 P.2d 436, 440 (Div 1, 1989), *Hansen* does not explicitly require an
22 expert to provide an alternative special benefit calculation.

23 403. Here, the challenging parties did present expert appraisal evidence showing it
24 was not possible to conclude in 2019 that their properties would be benefited by the
25 anticipated 2024 LID Improvements.

1 404. The facts of *Hansen* are also distinguishable because there the property
2 owner only offered “bare assertions” that his property would not specially benefit, without
3 any expert or appraisal testimony. In the present case, Appellants have provided testimony
4 from a number of experienced, highly regarded MAI appraisers that the properties would not
5 specially benefit in any actual, measurable, substantial, special way, and that the City’s
6 assertion of special benefit from the anticipated 2024 LID Improvements was speculation.
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12 405. The City agreed that there is a hypothetical point at which it would have been
13 impossible to accurately estimate special benefits. 10/28/2020 Hrg. Tr. at 158:18-160:15. In
14 such a case, it would be an impossible task for objectors’ experts to provide an alternative
15 special benefit calculation.
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20 406. Appellants here presented ample expert testimony opining that it was
21 impossible to reliably discern actual, substantial value increases in 2019 from LID
22 Improvements that were not going to be complete until 2024 at the earliest.
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26 407. The Court finds that the Examiner’s recommended assessments were
27 arbitrary and capricious and made on a fundamentally wrong basis because of his
28 misapplication of the law and his legally incorrect findings regarding the sufficiency of
29 Appellants’ experts to rebut the presumption. These include the following:
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- 33 • “[E]vidence provided by Brian O’Connor is not sufficient expert appraisal
34 evidence to rebut the presumption” because Mr. O’Connor did not conduct “an
35 independent special benefit analysis for the properties.” Examiner’s Final
36 Recommendation at 10, 120 (LID_000856, LID_000966).
37
38 • Randall Scott “is not a licensed appraiser” and did not provide testimony
39 “regarding the current market value of the Objectors’ properties, or whether
40 those properties would be specially benefitted.” *Id.* at 10. Mr. Scott’s appraisal
41 review “is insufficient to rebut the presumption[.]” *Id.* at 121 (LID_000967).
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43 • Benjamin Scott of Northwest Property Tax Consultants is “not a licensed
44 appraiser” and he “did not calculate a special benefit for any of the properties
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1 under his review.” *Id.* at 10. His “reports and testimony are insufficient appraisal
2 evidence to rebut the presumption[.]” *Id.* at 121 (LID_000967).

- 3
4 • Anthony Gibbons “does not provide a special benefit analysis for the property
5 and is not a property-specific appraisal for valuation.” *Id.* at 16 (LID_000862).
6 His reviews “do not address valuations for individual parcels or their special
7 benefits” and were therefore not adequate “to provide support for arguments that
8 a property is not specially benefitted or is improperly valued.” *Id.* at 117
9 (LID_000963).
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11 • Peter Shorett’s testimony “did not provide sufficient evidence to rebut the
12 presumption” because he did not “provide an analysis of the current market value
13 of the properties” or “the effect of the LID Improvements on any specific
14 property.” *Id.* at 119 (LID_000965).

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17 408. The Presumption was rebutted. “[W]here a protesting owner alleges her
18 assessment exceeds the special benefit and presents sufficient evidence to overcome the
19 presumptions, but the city confirms the assessment roll regardless, a court will reduce or
20 annul the assessment as arbitrary and capricious unless the city presented sufficient
21 competent evidence to the contrary.” *Hasit*, 179 Wn. App. at 936.

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24 409. Appellants initially bore the burden of coming forward with credible
25 evidence. They did, presenting reports and testimony from thirteen sophisticated property
26 owner representatives and nine experts that the City’s proposed assessments were arbitrary,
27 capricious and founded on a number of fundamentally wrong bases. Because Appellants
28 presented ample credible evidence to rebut the presumption, the burden shifted to the City to
29 demonstrate that the assessments were proper. “The ultimate burden of showing that land
30 within an LID is specially benefitted remains with the City.” *In re Indian Trail Trunk Sewer*
31 *Sys.*, 35 Wn. App. At 843.

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34 410. It was arbitrary and capricious for the Examiner and City Council to continue
35 to rely on the presumption after it had been rebutted; the City’s assessments were finalized
36 on a fundamentally wrong basis. The Examiner’s Final Recommendation the presumption
37 of correctness in favor of the City THIRTY-ONE (31) times, but at no point acknowledge
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1 that the burden had shifted. This misapplication of the presumption invalidates the
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3 underlying process applied by the Hearing Examiner.
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5 **3. City Council, sitting as a Board of Equalization, failed to**
6 **independently review the Examiner's recommendations.**
7

8 411. City Council has a duty to independently review the appeals, sitting as a
9 Board of Equalization. *See, e.g.,* Findings and Conclusions of City Council (LID_000050)
10 (“in reviewing appeals, the Council applies the standard of review applied by the Hearing
11 Examiner”).
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16 412. Having independent appellate review is an important part of equitable tax
17 review. *See generally* Laura VanderVeer King, *Practice and Procedure Before the*
18 *Washington State Board of Tax Appeals*, 33 GONZ. L. REV. 141, 168 (1998).
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22 413. Nothing in the record actually shows that the Committee or Council gave
23 thoughtful and meaningful consideration of Appellants' appeals. Transcripts of the two
24 Committee meetings and one Council meeting do not reveal any thoughtful consideration of
25 the issues raised.
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30 414. The blanket recitation within the City Council's Findings and Conclusions'
31 that all laws and procedures were followed is too generic to demonstrate meaningful review.
32
33

34 415. City Councils' failure to independently review Appellants' appeals was
35 arbitrary and capricious.
36
37

38 416. The Court finds that the LID assessment process as conducted by the City
39 was fundamentally flawed. The process was infected from its inception by a rush to
40 judgment by City staff who were apparently anxious to begin collecting revenue based on
41 assessments of a LID improvements far in advance of the completion dates.
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- 1 a. City staff instructed Mr. Macauley to unreasonably combine the
2 special benefit calculations of unrelated improvements and to take
3 other appraisal short cuts that made his valuations speculative at best.
4
5 b. The Hearing Examiner improperly applied the presumptions
6 applicable to the case and refused to properly consider evidence
7 contrary to the desired conclusion.
8
9 c. The Hearing Examiner failed to consider the impact of the Global
10 Pandemic and subsequent Global economic downturn on the
11 valuations before him and erroneously concluding that these issues
12 were “political” issues.
13
14 d. The City Council was deprived of the ability to conduct any
15 meaningful review of the assessments or to appropriately consider any
16 of the issues that were properly before it.
17
18 e. Its affirmation of the LID assessments did not constitute the exercise
19 of any form of reasoned judgment and was by definition arbitrary and
20 capricious.
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32 **D. Property-Specific Conclusions**
33 **The Harbor Steps**
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36 417. The record does not support the City’s assessments on the Harbor Steps
37 properties.
38

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40 418. Imposing the assessments on the Harbor Steps years in advance of any actual
41 benefit to the properties was speculative and a fundamental flaw.
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44 419. Harbor Steps presented expert and property representative evidence to rebut
45 the assessment’s presumption of correctness. The Hearing Examiner’s failure to adequately
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1 consider this evidence and failure to shift the burden of proof back onto the City was
2 arbitrary and capricious.

3
4
5 420. The Hearing Examiner did not consider Harbor Steps' expert evidence,
6 including Mr. O'Connor's MAI expert appraisal evidence concluding that the City's
7 assessment overstated the Before Value of the four Harbor Steps buildings by \$88 million.
8

9
10 421. The Hearing Examiner did not adequately consider Harbor Steps' property
11 representative testimony. Mr. Leigh testified that the four Harbor Steps buildings already
12 have a high-quality connectivity to the waterfront, and on that basis, the Overlook Walk not
13 only is not a special benefit, but in fact diminishes the unique benefit the Harbor Steps
14 pedestrian way provides to the Harbor Steps properties.
15
16

17 422. Assuming a special benefit, failure to discount special benefits for risk,
18 present value and the impact of COVID-19 was a fundamental flaw.
19

20 423. As a result of these errors, the City's assessment for the Harbor Steps
21 properties fail to satisfy the law's requirements.
22

23 424. The City's assessments for the Harbor Steps properties should reflect
24 standard appraisal techniques, including discounting for the time value of money and
25 impacts from COVID-19.
26

27 **Helios Apartments**

28 425. The record does not support the City's assessment of \$2,244,356 on the
29 Helios property.
30

31 426. Imposing the assessments on the Helios Apartments years in advance of any
32 actual benefit to the property was speculative and a fundamental flaw.
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34 427. The City's assessment is based upon factual mistakes and is, therefore,
35 fundamentally flawed. The City's reliance on an incorrect unit mix and other errors resulted
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1 in an overstated Before Value by \$59,084,000. (LID001627; LID_005616; LID_005619-
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3 21).

4 428. Helios presented expert and property representative evidence and testimony
5
6 to rebut the assessment's presumption of correctness. The Hearing Examiner's failure to
7
8 adequately consider this evidence and failure to shift the burden of proof back onto the City
9
10 was arbitrary and capricious.
11

12 429. Assuming a special benefit, failure to discount special benefits for risk,
13
14 present value and the impact of COVID-19 was a fundamental flaw.
15

16 430. As a result of these errors, the City's assessment for Helios fails to satisfy the
17
18 law's requirements.
19

20 431. The City's assessment for Helios final should reflect standard appraisal
21
22 techniques, including discounting for the time value of money and impacts from COVID-19.
23

24 **The Hedreen Hotels**

25
26 432. The record does not support the City's combined assessment of \$3,615,734
27
28 on The Hedreen Hotels.
29

30 433. Imposing the assessments on the The Hedreen Hotels years in advance of any
31
32 actual benefit to the properties was speculative and a fundamental flaw.
33

34 434. The Hedreen Hotels presented sufficient evidence to rebut the assessment's
35
36 presumption of correctness. The Hearing Examiner's failure to adequately consider this
37
38 evidence—specifically the hotel's actual operating information— and failure to shift the
39
40 burden of proof back onto the City was arbitrary and capricious and led to flawed results.
41

42 435. The City's failure to incorporate the actual operating and income data from
43
44 the hotels was fundamentally flawed and resulted in overstated 2019 Before values for each
45
46 hotel. The values and assessments should be reduced accordingly.
47

1 436. It was arbitrary and capricious for the Hearing Examiner to disregard Mr.
2
3 Shorett's MAI After value opinion evidence because Mr. Shorett did not "counter-
4
5 speculate" as to an alternative hypothetical After value. Mr. Shorett's appraisal review and
6
7 testimony rebutted Mr. Macaulay's special benefit estimates. Mr. Gibbons' report and
8
9 testimony buttress Mr. Shorett's conclusions that the City's hypothetical After values are too
10
11 small and remote to support an assessment.

12 437. Assuming a special benefit, failure to discount special benefits for risk,
13
14 present value and the impact of COVID-19 was a fundamental flaw.

15 438. As a result of these errors, the City's assessment for The Hedreen Hotels fails
16
17 to satisfy the requirements of law.

18 439. The City's assessments for The Hedreen Hotel properties should reflect
19
20 standard appraisal techniques, including discounting for the time value of money and
21
22 impacts from COVID-19.

23 **Grand Hyatt Parking and Retail**

24 440. The record does not support the City's assessment of \$549,334 on Grand
25
26 Hyatt Parking and Retail.

27 441. Imposing the assessments on the Grand Hyatt Parking and Retail years in
28
29 advance of any actual benefit to the property was speculative and a fundamental flaw.

30 442. Grand Hyatt Parking and Retail presented sufficient evidence to rebut the
31
32 assessment's presumption of correctness. The Hearing Examiner's failure to adequately
33
34 consider this evidence and failure to shift the burden of proof back onto the City was
35
36 arbitrary and capricious.

37 443. The Hearing Examiner did not consider 7th & Pine's expert evidence
38
39 regarding the parking stalls leased to the Grand Hyatt hotel, and specifically that they would
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1 be only 20-30% occupied by hotel guests. The assessment should be recalculated in light of
2 this evidence.
3

4 444. The final assessment is disproportionate to similarly situated properties
5 within the LID and should be re-assessed in conformance with the other hotel parking lots.
6
7

8 445. Assuming a special benefit, failure to discount special benefits for risk,
9 present value and the impact of COVID-19 was a fundamental flaw.
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11

12 446. As a result of these errors, the City's assessment for 7th & Pine fails to
13 satisfy the law's requirements.
14
15

16 **Lot B**
17

18 447. The record does not support the City's assessment of \$73,663 on Lot B.
19

20 448. Imposing the assessments on Lot B years in advance of any actual benefit to
21 the property was speculative and a fundamental flaw.
22
23

24 449. Lot B presented sufficient evidence to rebut the assessment's presumption of
25 correctness. The Hearing Examiner's failure to adequately consider this evidence and
26 failure to shift the burden of proof back onto the City was arbitrary and capricious.
27
28

29 450. The Hearing Examiner did not consider Lot B's expert evidence regarding
30 the 0.40% special assessment amount assigned to Lot B. It was error for the Examiner to
31 disregard Mr. Gordon's MAI testimony that the special benefit was calculated on a
32 fundamentally wrong basis and too small to estimate because Mr. Gordon did not provide an
33 alternative special benefit amount.
34
35

36 451. Assuming a special benefit, failure to discount special benefits for risk,
37 present value and the impact of COVID-19 was a fundamental flaw.
38
39

40 452. As a result of these errors, the City's assessment for Lot B fails to satisfy the
41 law's requirements.
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Seattle Waterfront Marriott

453. The record does not support the City's assessment of \$2,106,827 on Seattle Waterfront Marriott.

454. Imposing the assessments on the Seattle Waterfront Marriott years in advance of any actual benefit to the property was speculative and a fundamental flaw.

455. Seattle Waterfront Marriott presented expert and property representative evidence and testimony to rebut the City's presumption of correctness. The Hearing Examiner's failure to adequately consider this evidence and failure to shift the burden of proof back onto the City was arbitrary and capricious.

456. The \$67,738 assessment against the Seattle Waterfront Marriott's personal property was error because personalty should not be assessed, and disproportionate because other hotels' and other properties' personalty (other than SHG Hotel) were not assessed. The assessment was therefore imposed on a fundamentally wrong basis and without proper notice.

457. It was arbitrary and capricious for the Hearing Examiner to disregard Seattle Waterfront Marriott's MAI appraisal evidence that it would not receive a special benefit from the improvements because Mr. Shorett did not provide a counter-estimate of special benefits.

458. It was arbitrary and capricious for the Hearing Examiner to disregard evidence that the City's imposition of a higher percentage assessment on the Seattle Waterfront Marriott compared to its competitors was disproportionate and fundamentally flawed because ignores specific market segment evidence and places Seattle Waterfront

1 Marriott at a competitive disadvantage, and thus reduces any special benefit otherwise
2 accruing to the Seattle Waterfront Marriott from the LID Improvements.
3

4 459. Assuming a special benefit, failure to discount special benefits for risk,
5 present value and the impact of COVID-19 was a fundamental flaw.
6

7 460. The estimated special benefits should have been discounted to present value
8 to account for the time value of money and reduce the speculative nature of their calculation.
9 Estimated special benefits should have been discounted to a value accounting for delivery in
10 2024, at a minimum. Failing to do so was fundamentally wrong. Mr. Gibbons' calculations
11 of hypothetical 2024 special benefits using the City's initial estimate is reasonable, and
12 should be incorporated into discounts of the City's assessments.
13

14 461. The City failed to discount the special benefits for the risks and uncertainties
15 associated with the LID improvements and the impact of COVID-19 on Seattle Waterfront
16 Marriott.
17

18 462. As a result of these errors, the City's assessment for Seattle Waterfront
19 Marriott is fundamentally wrong and arbitrary and capricious.
20

21 463. The City's assessment for Seattle Waterfront Marriott should reflect standard
22 appraisal techniques, including discounting for the time value of money and impacts from
23 COVID-19.
24

25 **SHG Hotel**

26 464. The record does not support the City's assessment of \$1,676,215 on SHG
27 Hotel.
28

29 465. Imposing the assessments on SHG Hotel years in advance of any actual
30 benefit to the property was speculative and a fundamental flaw.
31

1 466. SHG Hotel presented expert and property representative evidence and
2 testimony to rebut the City's presumption of correctness. The Hearing Examiner's failure to
3 adequately consider this evidence and his failure to shift the burden of proof back onto the
4 City was arbitrary and capricious.
5
6

7
8 467. The \$75,029 assessment against the SHG Hotel's personal property was error
9 because personalty should not have been assessed and disproportionate because other hotels
10 and other properties' personalty were not assessed (other than Seattle Waterfront Marriott).
11 The assessment was therefore imposed on a fundamentally wrong basis and without proper
12 notice.
13
14

15 468. It was arbitrary and capricious for the Hearing Examiner to disregard SHG
16 Hotel's MAI appraisal evidence that SHG Hotel would not receive a special benefit from the
17 improvements because Mr. Shorett did not provide a counter-estimate of special benefits.
18
19

20 469. The Hearing Examiner did not adequately consider property specific
21 testimony that the building already has a high-quality connectivity to the waterfront, and on
22 that basis, the Overlook Walk is not a special benefit.
23
24

25 470. Assuming a special benefit, failure to discount special benefits for risk,
26 present value and the impact of COVID-19 was a fundamental flaw.
27
28

29 471. The estimated special benefits should have been discounted to present value
30 to account for the time value of money and reduce the speculative nature of their calculation.
31 Estimated special benefits should have been discounted to a value accounting for delivery in
32 2024, at a minimum. Failing to do so was fundamentally wrong. Mr. Gibbons' calculations
33 of hypothetical 2024 special benefits using the City's initial estimate is reasonable, and
34 should be incorporated into discounts of the City's assessments.
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1 472. The City failed to discount the special benefits for the risks and uncertainties
2 associated with the LID improvements and the impact of COVID-19 on SHG Hotel.
3

4 473. As a result of these errors, the City's assessment for Seattle Waterfront
5 Marriott is fundamentally wrong and arbitrary and capricious.
6
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8 474. The City's assessment for SHG Hotel should reflect standard appraisal
9 techniques, including discounting for the time value of money and impacts from COVID-19.
10
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12 **SHG Garage**
13

14 475. The record does not support the City's revised assessment of \$132,436 on
15 SHG Garage.
16
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18 476. Imposing the assessments on SHG Garage years in advance of any actual
19 benefit to the property was speculative and a fundamental flaw.
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21

22 477. SHG Garage presented expert and property representative evidence and
23 testimony to rebut the assessment's presumption of correctness. The Hearing Examiner's
24 failure to adequately consider this evidence and failure to shift the burden of proof back onto
25 the City was arbitrary and capricious.
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30 478. It was arbitrary and capricious for the Hearing Examiner to disregard SHG
31 Garage's MAI appraisal evidence that SHG Garage would not receive a special benefit from
32 the improvements because Mr. Shorett did not provide a counter-estimate of special
33 benefits.
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38 479. The Hearing Examiner did not adequately consider property specific
39 testimony that the building already has a high-quality connectivity to the waterfront, and on
40 that basis, the Overlook Walk is not a special benefit.
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43

44 480. Assuming a special benefit, failure to discount special benefits for risk,
45 present value and the impact of COVID-19 was a fundamental flaw.
46
47

1 481. As a result of these errors, the City's assessment for SHG Garage fails to
2 satisfy the law's requirements.
3

4 482. The City's assessment for SHG Garage should reflect standard appraisal
5 techniques, including discounting for the time value of money and impacts from COVID-19.
6
7

8 **SHG Retail**
9

10 483. The record does not support the City's revised assessment of \$31,346 on
11 SHG Retail.
12

13 484. Imposing the assessments on SHG Retail years in advance of any actual
14 benefit to the property was speculative and a fundamental flaw.
15
16

17 485. SHG Retail presented expert and property representative evidence and
18 testimony to rebut the assessment's presumption of correctness. The Hearing Examiner's
19 failure to adequately consider this evidence and failure to shift the burden of proof back onto
20 the City was arbitrary and capricious.
21
22

23 486. It was arbitrary and capricious for the Hearing Examiner to disregard SHG
24 Retail's MAI appraisal evidence that SHG Retail would not receive a special benefit from
25 the improvements because Mr. Shorett did not provide a counter-estimate of special
26 benefits.
27
28

29 487. The Hearing Examiner did not adequately consider property specific
30 testimony that the building already has a high-quality connectivity to the waterfront, and on
31 that basis, the Overlook Walk is not a special benefit.
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34 488. Assuming a special benefit, failure to discount special benefits for risk,
35 present value and the impact of COVID-19 was a fundamental flaw.
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38 489. As a result of these errors, the City's assessment for SHG Retail fails to
39 satisfy the law's requirements.
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1 490. The City's assessment for SHG Retail should reflect standard appraisal
2 techniques, including discounting for the time value of money and impacts from COVID-19.
3

4 **RRRR Investments**
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6 491. The record does not support the City's revised assessments of \$41,245 for
7 Unit 3800 and \$44,084 for Unit 3802 on the RRRR Investments properties.
8

9 492. Imposing the assessments on RRRR Investments years in advance of any
10 actual benefit to the properties was speculative and a fundamental flaw.
11

12 493. RRRR Investments presented expert and property representative evidence
13 and testimony to rebut the assessment's presumption of correctness. The Hearing
14 Examiner's failure to adequately consider this evidence and failure to shift the burden of
15 proof back onto the City was arbitrary and capricious.
16

17 494. It was arbitrary and capricious for the Hearing Examiner to disregard RRRR
18 Investments' MAI appraisal evidence that RRRR Investments would not receive a special
19 benefit from the improvements because Mr. Shorett did not provide a counter-estimate of
20 special benefits.
21

22 495. The City's assessment methodology was arbitrary and fundamentally flawed
23 for RRRR Investments' condominiums because the City did not assess to what extent the
24 benefits inured to the individual properties and applied a single percentage benefit to each
25 unit in a building.
26

27 496. Assuming a special benefit, failure to discount special benefits for risk,
28 present value and the impact of COVID-19 was a fundamental flaw.
29

30 497. As a result of these errors, the City's assessment for RRRR Investments fails
31 to satisfy the law's requirements.
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1 498. The City's assessment for RRRR Investments should reflect standard
2 appraisal techniques, including discounting for the time value of money and impacts from
3 COVID-19.
4

5
6 **Sound Vista Properties**
7

8
9 499. The record does not support the City's revised assessment of \$122,412 for
10 Sound Vista's property.
11

12 500. Imposing the assessments on Sound Vista Properties years in advance of any
13 actual benefit to the property was speculative and a fundamental flaw.
14

15 501. Sound Vista presented expert and property representative evidence and
16 testimony to rebut the assessment's presumption of correctness. The Hearing Examiner's
17 failure to adequately consider this evidence and failure to shift the burden of proof back onto
18 the City was arbitrary and capricious.
19

20 502. It was arbitrary and capricious for the Hearing Examiner to disregard Sound
21 Vista's MAI appraisal evidence that Sound Vista's property would not receive a special
22 benefit from the improvements because Mr. Shorett did not provide a counter-estimate of
23 special benefits.
24

25 503. The City's assessment methodology was arbitrary and fundamentally flawed
26 for Sound Vista's condominium because the City did not assess to what extent the benefits
27 inured to the individual property and applied a single percentage benefit to each unit in a
28 building.
29

30 504. The Hearing Examiner did not adequately consider property specific
31 testimony that the building already has a high-quality connectivity to the waterfront, and on
32 that basis, the Overlook Walk is not a special benefit.
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1 505. Assuming a special benefit, failure to discount special benefits for risk,
2
3 present value and the impact of COVID-19 was a fundamental flaw.

4 506. As a result of these errors, the City's assessment for Sound Vista fails to
5
6 satisfy the law's requirements.
7

8 507. The City's assessment for Sound Vista should reflect standard appraisal
9
10 techniques, including discounting for the time value of money and impacts from COVID-19.
11

12 **United Way**
13

14 508. The record does not support the City's revised assessment of \$81,928 on the
15
16 United Way Property.
17

18 509. Imposing the assessments on the United Way years in advance of any actual
19
20 benefit to the property was speculative and a fundamental flaw.
21

22 510. United Way presented expert and property representative evidence and
23
24 testimony to rebut the assessment's presumption of correctness. The Hearing Examiner's
25
26 failure to adequately consider this evidence and failure to shift the burden of proof back onto
27
28 the City was arbitrary and capricious.
29

30 511. Assuming a special benefit, failure to discount special benefits for risk,
31
32 present value and the impact of COVID-19 was a fundamental flaw.
33

34 512. It was arbitrary and capricious for the Examiner to disregard United Way's
35
36 MAI appraisal evidence that United Way's property would not receive a special benefit from
37
38 the improvements because Mr. Shorett did not provide a counter-estimate of special
39
40 benefits.
41

42 513. As a result of these errors, the City's assessment for United Way fails to
43
44 satisfy the law's requirements.
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1 514. The City's assessment for United Way final should reflect standard appraisal
2 techniques, including discounting for the time value of money and impacts from COVID-19.
3

4 **Victor and Mary Moses**
5

6 515. The record does not support the City's assessment of \$25,519 on the Moses
7 Property.
8

9 516. Moses presented and relied on competent lay and expert evidence to rebut the
10 assessment's presumption of correctness. The Hearing Examiner's failure to adequately
11 consider this evidence and failure to shift the burden of proof back onto the City was arbitrary
12 and capricious.
13

14 517. The City and Hearing Examiner failed to discount special benefits for risk,
15 present value, and the impact of COVID-19, and failed to consider the potential detriment
16 the improvements may have on the value of the Moses Property.
17

18 518. The City's assessment methodology was arbitrary for the Moses Property
19 because the City did not assess to what extent the benefits inured to the individual properties
20 and applied a uniform special benefit percentage to every residential unit within the
21 building.
22

23 519. As a result of these errors, the City's assessment for Moses fails to satisfy the
24 law's requirements.
25

26 520. The City's assessment for Moses should reflect standard and accepted
27 appraisal techniques.
28

29 **III. ORDER**
30

31 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
32 the following:
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1 **The Harbor Steps**

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3 1. Based on the foregoing findings of fact and conclusions of law, the City's
4 Waterfront LID assessments for the Harbor Steps properties are annulled, and the City is
5 ordered to refund any assessments paid by Appellants under protest.
6
7

8 **Helios Apartments**

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10 2. Based on the foregoing findings of fact and conclusions of law, the City's
11 Waterfront LID assessment for Helios is annulled, and the City is ordered to refund any
12 assessment paid by Appellant under protest.
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18 **The Hedreen Hotels**

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20 3. Based on the foregoing findings of fact and conclusions of law, the City's
21 Waterfront LID assessments for The Hedreen Hotels are annulled, and the City is ordered to
22 refund any assessments paid by Appellants under protest.
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25
26

27 **Grand Hyatt Parking and Retail**

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29 4. Based on the foregoing findings of fact and conclusions of law, the City's
30 assessment for 7th & Pine is annulled, and the City is ordered to refund any assessment paid
31 by Appellant under protest.
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33
34

35 **Lot B**

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37 5. Based on the foregoing findings of fact and conclusions of law, the City's
38 Waterfront LID assessment for Lot B is annulled, and the City is ordered to refund any
39 assessment paid by Appellant under protest.
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1 **Seattle Waterfront Marriott**

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3 6. Based on the foregoing findings of fact and conclusions of law, the City's
4 Waterfront LID assessment for Seattle Waterfront Marriott is annulled, and the City is
5 ordered to refund any assessment paid by Appellant under protest.
6
7

8 **SHG Hotel**

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11 7. Based on the foregoing findings of fact and conclusions of law, the City's
12 Waterfront LID assessment for SHG Hotel is annulled, and the City is ordered to refund any
13 assessments paid by Appellant under protest.
14
15

16 **SHG Garage**

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19 8. Based on the foregoing findings of fact and conclusions of law, the City's
20 Waterfront LID assessment for SHG Garage is annulled, and the City is ordered to refund
21 any assessment paid by Appellant under protest.
22
23

24 **SHG Retail**

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27 9. Based on the foregoing findings of fact and conclusions of law, the City's
28 Waterfront LID assessment for SHG Retail is annulled, and the City is ordered to refund any
29 assessment paid by Appellant under protest.
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31

32 **RRRR Investments**

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35 10. Based on the foregoing findings of fact and conclusions of law, the City's
36 Waterfront LID assessments for RRRR Investments are annulled, and the City is ordered to
37 refund any assessments paid by Appellant under protest.
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Sound Vista Properties

11. Based on the foregoing findings of fact and conclusions of law, the City's Waterfront LID assessment for Sound Vista is annulled, and the City is ordered to refund any assessment paid by Appellant under protest.

United Way

12. Based on the foregoing findings of fact and conclusions of law, the City's Waterfront LID assessment for United Way is annulled, and the City is ordered to refund any assessment paid by Appellant under protest.

Victor and Mary Moses

13. Based on the foregoing findings of fact and conclusions of law, the City's Waterfront LID assessment for Moses is annulled, and the City is ordered to refund any assessment paid by Moses under protest.

SO ORDERED _____, 2023.

JUDGE MATTHEW WILLIAMS

King County Superior Court
Judicial Electronic Signature Page

Case Number: 21-2-10100-0
Case Title: SHG GARAGE SPE VS SEATTLE CITY OF
Document Title: ORDER RE FINDINGS AND ORDER

Signed By: Matt Williams
Date: March 08, 2023



Judge: Matt Williams

This document is signed in accordance with the provisions in GR 30.

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O=KCDJA, CN="Matt Williams:
dD/50zst7BGdnINZt8fBPA=="