

February 25, 2021

MEMORANDUM

To: Public Assets and Native Communities Committee
From: Eric McConaghy, Analyst
Subject: March 2 Hearings on Appeals of the Findings and Recommendation of the Hearing Examiner for the City of Seattle on the Final Assessment Roll for the Waterfront Local Improvement District (LID #6751)

On March 2, the Public Assets and Native Communities Committee (Committee) will hold hearings for multiple appeals of the Findings and Recommendation of the Hearing Examiner for the City of Seattle on the Final Assessment Roll for the Waterfront Local Improvement District (LID #6751) (Initial Report - see [Clerk File 321780](#)). See Attachment 1 for a table of the appeals with hearings on March 2 indexed with page numbers of the Initial Report and hyperlinks to copies of the appeals.

The hearings for appeals of the Initial Report on March 2 will be followed by additional hearings scheduled before the Committee on April 6. On April 6, the Committee will hear appeals from the Initial Report and will hear appeals from the Final Findings and Recommendation of the Hearing Examiner for the City of Seattle on the Final Assessment Roll for the Waterfront Local Improvement District (LID #6751) (Final Report – see [Clerk File 321888](#)). The history of the Initial and Final Report is included in the background of the Waterfront Local Improvement (Waterfront LID) Assessment provided Attachment 2.

After the Committee has heard all appeals from the Initial Report and the Final Report, the Committee will consider and make recommendations regarding each appeal to Council based solely on the record from the Hearing Examiner (see Attachment 3). After reviewing and deciding upon all appeals of the Hearing Examiner’s recommendation on the final assessment roll, the Council may act by ordinance to approve the Final Assessment Roll for the Waterfront LID.

Quasi-Judicial Matter

[Revised Code of Washington \(RCW\) 35.44.070](#) and [Seattle Municipal Code \(SMC\) 20.04.090](#) require the Council to hear any appeals from the report of the Hearing Examiner on the final assessment roll for local improvement districts (LIDs). According to the [City Council Rules for Quasi-Judicial Proceedings \(QJ Rules\)](#), the matter of an appeal of an individual’s final assessment for a LID is quasi-judicial.

As a quasi-judicial matter, Councilmembers may not have any direct or indirect communication with a proponent, opponent, or party of record about the merits of an appeal of a Waterfront LID assessment outside a Council hearing or meeting considering the Waterfront LID.

The matter of an appeal of an individual’s final assessment for a LID is pending when the Hearing Examiner has filed the Report with the City Clerk. The appeals of the Waterfront LID assessments became pending quasi-judicial matters on September 8, 2020 with the Hearing Examiner’s filing of the Initial Report.

They will remain quasi-judicial until the final termination of all judicial appeals of the Council decision in the matter of the final assessment roll for the Waterfront LID. The Council decision may be appealed to King County Superior Court per [RCW 35.44.200](#)

Standard of Review

Per [SMC 20.040.090.E](#), review by the Committee on the appeals “shall be limited to and shall be based solely upon the record from the hearing, although the (Committee) may permit oral or written arguments or comments that are confined to the content of that record.” For the hearings before the Committee on March 2 and April 6, no opportunity for additional oral or written argument or comments will be provided.

QJ Rules VI.C.5.b requires that the “...Hearing Examiner's...decision shall be accorded substantial weight and the burden of establishing the contrary is upon the appealing party. The Council may adopt or reject, in whole or in part, the findings, recommendations, and decision of the Hearing Examiner or designated officer or make such other disposition of the matter as is authorized by [RCW 35.44.100](#) and [SMC Section 20.04.090.B](#).”

Scope of Decisions on Appeals

Consistent with RCW 35.44.200, SMC 20.04.090.B states that after hearing appeals “...the City Council may: accept the assessment roll as prepared; correct, revise, raise, lower, change or modify the roll or any part thereof; or set aside the roll and order the assessment to be made de novo.”

The Committee’s choice of recommendations to Council for action on the appeals are limited to the options provided in QJ Rules VIII.C. The Council may “approve, approve with conditions, modify, remand, or deny” the appeal. After the Committee votes on recommendations of Council action for the appeals, Council Central staff would prepare a report to the Council per QJ Rules VII.A.

After considering the Committees recommendations, Council would decide on each appeal. Council may not approve the final assessment roll for the Waterfront LID without reviewing and deciding upon all appeals of the HE’s recommendation on the final assessment roll. The approval of the Waterfront LID final assessment roll would be by ordinance (QJ Rules VIII.E). The Waterfront LID assessment would fund \$160 million of improvements plus approximating \$15.5 million on financing costs of the LID.

Attachments:

1. Index of Appeals Scheduled for Hearing before the Committee on March 2
2. Background on the Waterfront LID Final Assessment Roll – Updated 02/25/2021
3. References to the Record from the Assessment Roll Hearing on the Waterfront LID

cc: Dan Eder, Interim Central Staff Director

Attachment 1 - Index of appeals from Hearing Examiner's Initial Report *
 Hearings scheduled before Public Assets and Native Communities Committee on March 2, 2021

Item number	Appeal File No.	CWF Case No.	Appellant Name	Remanded	Appealed Initial & Final Report	Page of Initial Report*	Hyperlink to Appeal** (Clicking on the hyperlink will download the documents filed for the specific appeal.)
1	001_CWF-0216	CWF-0216	DONCASTER INVESTMENTS	no	no	58	http://clerk.seattle.gov/~cfpics/cf_321893_0216.zip
2	004_CWF-0022	CWF-0022	Eugene and Leah Burrus	no	no	19	http://clerk.seattle.gov/~cfpics/cf_321893_0022.zip
3	006-CWF-0228	CWF-0228	Dona Golden, Anthony Gewald	no	no	60	http://clerk.seattle.gov/~cfpics/cf_321893_0228.zip
4	007_CWF-0063	CWF-0063	Theodore & Priscilla Tanase	no	no	26	http://clerk.seattle.gov/~cfpics/cf_321893_0063.zip
5	008_CWF-0078	CWF-0078	David Shih	no	no	29	http://clerk.seattle.gov/~cfpics/cf_321893_0078.zip
6	009_CWF-0137	CWF-0137	Donald L. Patrick & Shirley A. A. Beresford	no	no	41	http://clerk.seattle.gov/~cfpics/cf_321893_0137.zip
7	010_CWF-0154	CWF-0154	William and Carolyn Gaylord	no	no	44	http://clerk.seattle.gov/~cfpics/cf_321893_0154.zip
8	011_CWF-0189	CWF-0189	M. Barton Waring	no	no	51	http://clerk.seattle.gov/~cfpics/cf_321893_0189.zip
9	012_CWF-0230	CWF-0230	Michael Ward and Stephanie Mantello	no	no	61	http://clerk.seattle.gov/~cfpics/cf_321893_0230.zip

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Item number	Appeal File No.	CWF Case No.	Appellant Name	Remanded	Appealed Initial & Final Report	Page of Initial Report*	Hyperlink to Appeal** (Clicking on the hyperlink will download the documents filed for the specific appeal.)
10	013_CWF-0338	CWF-0338	Frederick Hsu	no	no	86	http://clerk.seattle.gov/~cfpics/cf_321893_0338.zip
11	014_CWF-0204	CWF-0204	Mary Moreno	no	no	55	http://clerk.seattle.gov/~cfpics/cf_321893_0204.zip
12	015_CWF-0259	CWF-0259	Euseok Jeong	no	no	68	http://clerk.seattle.gov/~cfpics/cf_321893_0259.zip
13	016_CWF-0301	CWF-0301	Stephen and Melissa Babson	no	no	77	http://clerk.seattle.gov/~cfpics/cf_321893_0301.zip
14	017_CWF-0270	CWF-0270	Patrick McKelvey	no	no	70	http://clerk.seattle.gov/~cfpics/cf_321893_0270.zip
15	018_CWF-0206	CWF-0206	WOMENS UNIVERSITY CLUB	no	no	55	http://clerk.seattle.gov/~cfpics/cf_321893_0206.zip
16	019_CWF-0094	CWF-0094	Stuart C. McGehee and Dione McGehee	no	no	32	http://clerk.seattle.gov/~cfpics/cf_321893_0094.zip
17	020_CWF-0236	CWF-0236	Julie Binasz and Blaine Weber	no	no	63	http://clerk.seattle.gov/~cfpics/cf_321893_0236.zip
18	021_CWF-0375	CWF-0375	Victor C. and Mary K. Moses	no	yes	94	http://clerk.seattle.gov/~cfpics/cf_321893_0375.zip

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 Hearings scheduled before Public Assets and Native Communities Committee on March 2, 2021

Item number	Appeal File No.	CWF Case No.	Appellant Name	Remanded	Appealed Initial & Final Report	Page of Initial Report*	Hyperlink to Appeal** (Clicking on the hyperlink will download the documents filed for the specific appeal.)
19	022_CWF-0314	CWF-0314	NORDSTROM INC/ATTN: TAX DEP	no	no	79	http://clerk.seattle.gov/~cfpics/cf_321893_0314.zip
20	023_CWF-0280	CWF-0280	CURRAN PHILIP JAMES III+JOA	no	no	73	http://clerk.seattle.gov/~cfpics/cf_321893_0280.zip
21	024_CWF-0265	CWF-0265	Dorothy Ling	no	no	69	http://clerk.seattle.gov/~cfpics/cf_321893_0265.zip
22	025_CWF-0243	CWF-0243	TCL LLC	no	no	65	http://clerk.seattle.gov/~cfpics/cf_321893_0243.zip
23	026_CWF-0227	CWF-0227	John A. Bates and Carolyn Corvi	no	no	60	http://clerk.seattle.gov/~cfpics/cf_321893_0227.zip
24	027_CWF-0427	CWF-0427	EQR-HARBOR STEPS LLC	no	yes	105	http://clerk.seattle.gov/~cfpics/cf_321893_0427.zip
25	028_CWF-0426	CWF-0426	EQR-HARBOR STEPS LLC	no	yes	105	http://clerk.seattle.gov/~cfpics/cf_321893_0426.zip
26	029_CWF-0215	CWF-0215	Jane Finch	no	yes	57	http://clerk.seattle.gov/~cfpics/cf_321893_0215.zip
27	030_CWF-0439	CWF-0439	MARRIOTT BUSINESS SERVICES	no	yes	106	http://clerk.seattle.gov/~cfpics/cf_321893_0439.zip

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Hearings scheduled before Public Assets and Native Communities Committee on March 2, 2021

Item number	Appeal File No.	CWF Case No.	Appellant Name	Remanded	Appealed Initial & Final Report	Page of Initial Report*	Hyperlink to Appeal** (Clicking on the hyperlink will download the documents filed for the specific appeal.)
28	031_CWF-0438	CWF-0438	7TH & PINE LLC	no	yes	106	http://clerk.seattle.gov/~cfpics/cf_321893_0438.zip
29	032_CWF-0437	CWF-0437	HEDREEN HOTEL LLC	no	yes	106	http://clerk.seattle.gov/~cfpics/cf_321893_0437.zip
30	033_CWF-0436	CWF-0436	HEDREEN HOTEL LLC	yes	yes	106	http://clerk.seattle.gov/~cfpics/cf_321893_0436.zip
31	034_CWF-0435	CWF-0435	SOUND VISTA PROPERTIES LLC	no	yes	106	http://clerk.seattle.gov/~cfpics/cf_321893_0435.zip
32	035_CWF-0434	CWF-0434	SHG HOTEL SPE LLC	no	yes	106	http://clerk.seattle.gov/~cfpics/cf_321893_0434.zip

* Clerk File 321780 - Findings and Recommendation of the Hearing Examiner for the City of Seattle on the Final Assessment Roll for the Waterfront Local Improvement District (LID #6751)

[hyperlink to Initial Report](#)
[hyperlink to Clerk File 321780](#)

** Clerk File 321893 - Appeals of the Findings and Recommendation of the Hearing Examiner for The City of Seattle on the Final Assessment Roll for the Waterfront Local Improvement District (LID #6751); scheduled for the March 2, 2021, Seattle City Council Public Assets and Native Communities Committee Meeting.

[hyperlink to Clerk File 321893](#)

Background on the Waterfront Local Improvement District (LID) Assessment

In May 2018, Council, with the Mayor concurring, adopted [Resolution 31812](#) declaring the City's intent to construct the Seattle Central Waterfront Improvement Program and to create a local improvement district (LID) to assess a part of the cost and expense of those improvements against the properties specially benefited by the improvements. Resolution 31812 also notified all persons who object to such improvements to appear and present their objections at scheduled public hearings. It directed the City Clerk to give notice of the adoption of the resolution, provide information about the proposed LID, and share notice of the hearings with potentially affected property owners.

The Hearing Examiner (HE) subsequently conducted hearings, prepared a report, and delivered the report to Council for consideration before the Council's decision to form the Local Improvement District No. 6751 ("Waterfront LID") by passing [Ordinance 125760](#) with the Mayor's approval in January 2019.

Via Ordinance 125760, the City ordered the preparation of the final assessment roll for the Waterfront LID. The final assessment roll for any LID is a listing of all properties in the LID and the amount to be assessed against each property based on the increase in value accruing to each property (the "special benefit") that is attributable to the construction of the local improvements. Ordinance 125760 limits the total of all assessments of property specially benefited by the Waterfront LID improvements to no more than \$160 million plus the amount necessary to pay the costs of financing.

In January 2019, the City commissioned ABS Valuation (City Appraiser) to perform a [Final Special Benefit Study](#)¹ to determine the special benefit that each property located within the Waterfront LID boundary would receive from the LID improvements. In November 2019, based on the estimates in the Final Special Benefit Study, the Director of Transportation prepared the proposed final assessment roll for the Waterfront LID and filed it with the City Clerk.

In November 2019, the Council adopted [Resolution 31915](#) with the Mayor concurring, which initiated the process to confirm Waterfront LID assessments and designated February 4, 2020, as the date for the required hearing on the Waterfront LID final assessment. The HE conducted the hearing and subsequently filed his report of findings and recommendation with the City Clerk on September 8, 2020 (Initial Report – see [Clerk File 321780](#)).

[Revised Code of Washington \(RCW\) 35.44.070](#) and [Seattle Municipal Code \(SMC\) 20.04.090](#) require the Council to hear any appeals from the report of the Hearing Examiner on the final assessment roll for local improvement districts. SMC 20.04.090 and [City Council Rules for Quasi-Judicial Proceedings \(QJ Rules\)](#) subsection V.A.2 require that an appellant must file a notice of

¹ Addenda to Final Benefit Study:
https://waterfrontseattle.blob.core.windows.net/media/Default/WFS%20LID/2019_1204_addenda_report_delivered.pdf. Last accessed February 10, 2021.

appeal from said report with the City Clerk within 14 days of the Hearing Examiner's filing of the recommendation with the City Clerk.

SMC 20.04.090 requires the Council to set a time and place for a hearing on the appeal before the City Council or a committee thereof and to give notice of the time and place to the appellant following the filing of the notice of appeal. QJ Rules subsection IV.A states that the Council may delegate the appeal review to a committee and that the committee would make a recommendation to the full Council on the appeal. QJ Rules subsection VI.A requires the delegated committee to set the time and place for the hearing on the appeal within 15 days following the filing of the appeal with the City Clerk.

After the Hearing Examiner filed the Initial Report, the City Clerk received multiple appeals and it was necessary for Council to fix dates for hearings on valid appeals within the required 15-day time period. Council delegated appeals to the Council's Public Assets and Native Communities Committee (Committee) and fixed dates for hearing on the appeals by adopting [Resolutions 31969](#), [31972](#), [31973](#) and [31974](#).

In the Report, the Hearing Examiner recommended the remand of certain properties (Remanded Properties) to the City Appraiser for further analysis of their valuation before making a final recommendation on the final assessment of the Remanded Properties.

In November 2020, Council adopted [Resolution 31979](#) in response to the Hearing Examiner's recommendation to remand properties to the City Appraiser and to address the need to postpone hearings previously scheduled for December and January meetings of the Committee to March and April, respectively. Through Resolution 31979, the Council:

- Remanded to the City Appraiser for further analysis the valuation of the 17 Remanded Properties;
- Directed the City Appraiser to submit further analysis concerning valuation of the Remanded Properties to the Hearing Examiner no later than November 30, 2020;
- Directed the Hearing Examiner to review the City Appraiser's further analysis for the Remanded Properties and to provide notice and hold a hearing on the results of the analysis on the Remanded Properties;
- Directed the Hearing Examiner to reduce any findings, recommendations, and decisions on the Remanded Properties to writing and consolidate them with the findings and recommendations of the Initial Report into a Final Report;
- Requested the Hearing Examiner to file the Final Report with the City Clerk no later than February 1, 2021;
- Directed the City Clerk to post the filing or otherwise make it available; and
- Provided for appeal of the Final Report by any party who made a timely protest at the initial hearing;

- Provided for the filing of an amendment to an appeal that was properly submitted in response to the Initial Report; and
- Clarified that parties who properly filed appeals in response to the Initial Report and who do not wish to amend their appeals in response to the Final Report are not required to take any further action for their appeals to be heard.

The City Appraiser and the Hearing Examiner acted in accordance with the provisions in Resolution 31979. On Monday, February 1, 2021 the Hearing Examiner filed the Final Report with the City Clerk. The City Clerk provided notice of the filing.

The City Clerk received multiple appeals from the Final Report by February 5, 2021 making it necessary to fix the date for hearings on the appeals within the required 15-day time period. By adopting [Resolution 31990](#), Council scheduled hearings on the appeals of three appellants to be held before the Committee on April 6, 2021. Following, the City Clerk received additional appeals from the Final Report on dates such that they could not be included in Resolution 31990 and it was necessary to fix a date for hearings on the additional appeals with the required 15-day time period. Council is scheduled on March 1, 2021 to take action on a resolution that that would schedule the additional hearings before the Committee on April 6, 2021.

After the Committee has heard all appeals from the Initial Report and the Final Report, the Committee will make recommendations regarding each appeal to Council based solely on the record from the Hearing Examiner. Council may not approve the final assessment roll for the Waterfront LID without reviewing and deciding upon all appeals of the HE's recommendation on the final assessment roll. The approval of the Waterfront LID final assessment roll would be by ordinance (QJ Rules VIII.E). The Waterfront LID assessment would fund \$160 million of improvements plus approximating \$15.5 million on financing costs of the LID.

Attachment 3 – References to the Record from the Assessment Roll Hearing on the Waterfront LID

References to components of the Assessment Roll Hearing on Local Improvement District No. 6751 (Waterfront LID) before the Seattle Hearing Examiner may be accessed as follows:

Waterfront LID Assessment Hearing Recordings

<https://seattlechannel.org/hearingexaminer>

filter terms: “Waterfront LID Levy Assessment Hearing” and “Assessment Roll Hearing on Waterfront Local Improvement District”

Hearing Transcripts, Audio Recordings, Exhibits, and Other Party Filings from Waterfront LID Assessment Hearing

Clerk File 321607 - <http://clerk.seattle.gov/search/clerk-files/321607>

Waterfront LID Assessment Hearing Orders

<https://web6.seattle.gov/Examiner/case/LID-20-001>

Objections Received Regarding Waterfront LID

<https://www.seattle.gov/hearing-examiner/waterfront-lid-hearing>.

The objections are also available with the Findings and Recommendation of the Hearing Examiner for the City of Seattle on the Final Assessment Roll for the Waterfront Local Improvement District (LID #6751) in Clerk File 321780 - <http://clerk.seattle.gov/search/clerk-files/321780>