

## REPORT OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

### I. Overview and Hearing Program

#### Introduction

Resolution 31812 declares the Seattle City Council's intent to order the construction of the Seattle Central Waterfront Improvement Program and to create a local improvement district ("LID") to assess a part of the cost and expense of certain of those improvements against the properties specially benefited by the improvements. The City of Seattle Office of Hearing Examiner was designated by City Council Resolution 31812 to conduct the formation hearing for the LID. The Hearing Examiner's role was to conduct the hearing, take oral and written testimony, and to provide a report to the City Council on the testimony received, without any recommendation. This document serves as that report.

The formation hearing is a public hearing, and in this case provided members of the public with the opportunity to appear and fully provide their views on the formation of an LID to partially fund portions of the Seattle Waterfront Improvement Program. Chapter 35.43 RCW controls the proceedings for local improvement district procedures. RCW 35.43.140 concerns the formation hearing for a local improvement district, and directs:

Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city or town council or other legislative authority of the city or town, declaring its intention to order the improvement, setting forth the nature and territorial extent of the improvement, . . . and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein. . . .

The hearing herein required may be held before the city or town council, or other legislative authority, or before a committee thereof. The legislative authority of a city or town may designate an officer to conduct the hearings. **The committee or hearing officer shall report recommendations on the resolution to the legislative authority for final action.**

(emphasis added)<sup>1</sup>.

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<sup>1</sup> Preparatory discussions including the Office of Hearing Examiner, including input from the City Attorney's Office, and review of background materials from Municipal Research Services Center, indicated

## **A. Hearings Conducted**

The LID formation hearing was held on four separate days, (but was continued as a single hearing for purposes of the record), as follows:

Friday, July 13, 2018, from 9:00am-1:00pm & 2:00pm-6:00pm at the Washington State Convention Center, Ballroom 6E. Hearing Examiner, Ryan Vancil.

Tuesday, July 17, 2018, from 5:00pm-9:00pm at Seattle City Hall. Hearing Examiner, Ryan Vancil.

Wednesday, July 18, 2018, from 5:00pm-9:00pm at Seattle City Hall. Hearing Examiner, Ryan Vancil.

Saturday, July 28, 2018, from 9:00am-1:00pm at Seattle City Hall. Deputy Hearing Examiner, Barbara Dykes-Ehrlichman.

## **B. Site Preparation and Materials**

Site preparation and staffing for the hearings was provided by the Office of the City Clerk, and the Office of Seattle Waterfront. At each hearing location, materials describing the LID process, and Seattle's Central Waterfront Program were available in the lobby at an LID information table. The same information was available at the website: [waterfrontseattle.org/lid](http://waterfrontseattle.org/lid). Before and after the hearing, questions could also be directed to:

- Email: [lid@waterfrontseattle.org](mailto:lid@waterfrontseattle.org)
- Phone: 206-499-8040

## **C. Process for Taking Public Comment**

The formation hearing included an opportunity for oral comments, and a comment period for written comments to be submitted. All oral and written public comments submitted during the comment period of July 13 – 31, are summarized in this report.

Written public comment was submitted as follows:

- Written comment forms were available at the written public comment tables in the lobby at each location of the hearing. Written public comment boxes were also located in the lobby.

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that the hearing office report for a formation hearing should be a presentation of a summary of comments or "recommendations" from oral and written commenters, as opposed to a report that would include comments or recommendations on the LID from the Hearing Examiner.

- Written comments could be emailed to: [LIDHearingExaminer@seattle.gov](mailto:LIDHearingExaminer@seattle.gov).
- Written comments were also submitted by U.S. mail to:  
*LID Hearing Examiner, City of Seattle, PO Box 94607, Seattle, WA 98124-6907*

Oral Comment Was Provided As Follows:

- Each speaker was given up to 2 minutes to present public comment. However, due to the relatively low turnout of speakers compared with the number that had been expected, all speakers were asked if they had completed their comments and were given additional time and encouraged to complete their statements.
- When an individual speaker number was announced the speaker was instructed to:
  - a. Step forward to the microphone in the center aisle.
  - b. Speak directly into the microphone.
  - c. State and spell their name for the record.
  - d. A timer was visible to assist speakers with tracking the allotted time.
  - e. A green light turned yellow when the speaker had 30 seconds remaining.  
A red light and tone indicated when a speaker's allotted time had ended.

## II. Summary of Public Comments

### A. Overview

The City received a total of 333 comments during the official public comment period.<sup>2</sup>

<b>Hearing Date</b>	<b>Presented oral comment</b>	<b>Written comments received during hearing</b>	<b>TOTAL Comments</b>
07/13/2018	25	12	37
07/17/2018*	10	8	18
07/18/2018	9	3	12
07/28/2018	25	33	58
<b>TOTAL</b>	<b>69</b>	<b>56</b>	<b>125</b>

\* Three people signed up to present oral comments at the 07/17/2018 session who did not subsequently speak, and one other individual indicated he had signed up to speak but was mistaken as to the subject of the hearing.

<b>Written Comments</b>	<b>USPS Mail</b>	<b>Email</b>	<b>TOTAL</b>
Received during the public comment	29	179	208
Received prior to 7/13/2018	2	15	17
Received after 5:00 p.m. 7/31/2018	0	21	21
<b>TOTAL</b>	<b>31</b>	<b>215</b>	<b>246</b>

<sup>2</sup> 39 comments were received before or after this period and were not included in this report.

The public was requested to provide oral comments only once, but no restriction was imposed on written comments. The City received multiple comments (oral and/or written) from a single individual, multiple comments related to a single parcel, and single comments related to multiple parcels, such as those owned by the same individual:

	Distinct parcels	Distinct commenters
Identified parcels	210	284
Unknown parcels*	89	

\* Each comment for the 89 unknown parcels is counted separately.

The Municipal Research and Services Center's Local And Road Improvement Districts Manual (6th Edition, 2009) notes that "[b]ecause the first hearing is for the purpose of deciding the basic question of whether to form the LID, the city should permit all parties to present fully their views on the LID formation," *however*, "[a]ny arguments concerning special assessments, whether as to their validity or amount, can only be raised at the subsequent hearing on the assessment roll. This includes any arguments as to whether benefits conferred by the contemplated improvement will be special or general. *Citizens for Underground Equality v. Seattle*, 6 Wn. App. 388, 492 P.2d 1071 (1972)."

Appropriate subjects related to formation include: necessity of the improvements; the character of the improvements and design; the location of the improvements; the boundaries of the LID; the cost of the improvements; and the city's contribution to the cost of the improvements.

It is not the Hearing Examiner's role in this matter to provide comment on, or a recommendation concerning the proposal or comments received from the public. Instead, in accordance with RCW 35.43.140, this report is an effort to succinctly compile, summarize the public comments received, and to summarize primary issues and concerns and consistent patterns of comments as presented by speakers or in written form.

## **B. Comment Summary**

A summary of public comments both written and oral follows:<sup>3</sup>

### **1. The following subjects were addressed in some capacity in both written and oral opposition comments:**

Those who spoke in opposition to the LID appeared to have many of the same coordinated talking points. In some instances, comments were submitted as prepared

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<sup>3</sup> For specific comments please see Attachment A to this Report, which includes both written comments and a transcript of the oral comments.

statements signed by different individuals or businesses. A significant portion of those that commented indicated support for the City's proposed improvements but expressed concern about perceived unfairness of being responsible for paying for the improvements via the LID process.

Many commenters indicated that they believed the LID proposal is to fund a park that serves the entire City, and tourists, and does not just benefit the property owners in the proposed area of the LID. They believe that the LID proposal is an unfair and inequitable allocation of cost to a limited group when the greater community benefits. Other often repeated opposition comments include the following:

- Many of these commenters also expressed concern about the perception that they are wealthy or "rich," when in fact they are not;
- The LID does not provide a physical or material benefit such as roads, sewers, water systems, or other utilities. Seattle has not used an LID to fund past park proposals. Concerns were expressed about the precedent of using an LID to fund a park;
- The infrastructure for the LID proposal is a regional asset, and is not a local benefit;
- The LID proposal does not fulfill Seattle's racial equity goals;
- The LID proposal is legally flawed for a variety of reasons, including: it is a quid pro quo in return for private contributions, based on an appraisal that is flawed in its methodology, and is not a single project;
- Owners receive no benefit unless they sell their property, and they are not in a position to nor do they desire to sell;
- Owners would be forced to sell due to the property tax increase;
- Small businesses would be forced to sell due to the property tax increase;
- Owners would be unable to sell due to the property tax increase;
- The proposed park improvements will bring unwanted elements such as: homelessness, trash, drug use, and increased traffic. These impacts devalue properties in the area of the LID, and do not improve values;



- The process is unfair, because it is not being put to a vote and property owners do not have more direct control. In addition, the public process has not been adequate, for example: no survey of property owners in the LID area has been undertaken; and some public process information is outdated by years;
- The LID Special Benefit Study is flawed for reasons including but not limited to its failure to: accurately describe areas within and subject to the study; baseline data was not accurate or available; and concerns that accurate measurement of the benefit is not possible;
- The parks amenities should be funded through the Seattle Metropolitan Park District, and not by an LID;
- The method for evaluating assessed value appears unfair, because properties that are permitted or planned to be improved by new construction will be assessed only by the current value of the property; and
- Potential cost overruns are likely and owners would be required to pay supplemental assessments. In addition, commenters expressed the concern that the proposal should be based in discretionary spending in case of cost overruns, but that the LID would instead make the proposal mandatory to complete.

**2. Additional opposition comments were provided by individual commenters, and included the following:**

- Proposed improvements at 1st and Pike and on Pike Street will cause irreversible and unsustainable overdevelopment of the historic entrance to the Pike Place Market and cause a significant risk to public safety.
- The exclusionary criteria applied to determine the boundaries of the LID were not applied equitably, because certain properties are excluded that are in equal proximity to the benefits as others that are included in that area. In other cases, properties were included that are not within adequate proximity to the improvements as others that benefit. For example: Someone who lives more than a mile away from Pier 62 on Battery Street stated that he doubted that any potential buyer would perceive a “special benefit” from living a mile away from the improvements.
- The project is marketed as a \$696 million project, with the LID landowners within the LID paying \$200 million. This is misleading because the LID project improvements only cost \$324 million and land owners are expected to foot \$200

million of that cost, with the City only providing \$40 million. The project is inequitable.

- Alternative funding mechanisms were suggested by several speakers including but not limited to: taxing cruise ships and other tourism-based industries (based on the assumption that tourists will benefit from the presence of the park); City general fund; city-wide park levy; let the property assessment increase with time and collect a higher property tax; and approach the proposal in phases that allows funding to come from other sources over time.
- The cost of the LID proposal is too high.
- LID improvements provide special benefits to business owners, but not to residential owners.
- Concerns were raised about “double taxation” as property owners would pay the LID assessment, and would also pay any increase in property tax attributable to increased value.
- The proposal’s special benefits cannot be accurately estimated.

**3. The following subjects were addressed in some capacity in written support comments:**

- The improvements are needed, and the LID funding is supported by the community.
- The funding from the LID will yield significant social, economic, and environmental benefits to the entire City.
- The LID ensures that property owners who benefit from increased property value contribute something for that increased value.
- The amount paid by property owners in the LID is only a small portion of the total amount for the proposal, and is a fair assessment. Other funding comes from the City, State and private philanthropy.
- LIDs have been used on other civic projects including the South Lake Union Streetcar, the 3<sup>rd</sup> Avenue bus tunnel and the Aurora Avenue Bridge.

- LIDs are a fair funding mechanism to ensure that those who benefit most, and financially, from public infrastructure pay more.

### **III. Oral Comment**

A total of 72 people signed up to speak. Three individuals chose not to speak, and submitted comments in writing instead, and one individual was mistaken as to the subject of the hearing. The remaining 68 speakers spoke in opposition to the LID.

**The following individuals own property within the proposed boundary of the waterfront LID, and spoke in opposition to the proposal:**

Charles Smith  
Richard Barbieri  
Kirk Greene  
Lee Hean  
Elisabeth Ely  
Denise Gaffney Neu  
Sean Griffin  
Robin Eng  
Gene C. Liddell  
Gary Owen  
Robert Stevens  
Wally Kegel  
Brian Frederick  
Rebecca Laszlo  
Carol Ure  
Frank Katz  
Grace Norman  
Kevin Peck  
Steve Lowell  
Mandy Brindle  
Bryon Madsen  
Steve Danishek  
Harvey Allison  
Mary Park POA for Andrew Kim  
Richard Wieneke  
Victoria Childs  
David Westman  
Tom Diller  
Ridge Marshall  
Valerie Heide Mudra  
Jerry Waugh



William David Kenagy  
Jason Roseler  
Scott Chamberlin  
Joe Matthys  
Jeremy Glover  
John Bates  
Mark Snapp  
Bob Stinebaugh  
Mary Moreno  
Elizabeth Kanny  
Britt Tinglum  
Juanita Benetin  
Tony Gewald  
Carolyn Hollack  
Dorothy Ling  
William Justen  
Loren Freedman  
Rebecca McAdams  
Marilyn Sellers  
Karen Gielen  
Eric Faison  
Christine Nicole Habeeb  
Dan Wilson  
Sandra Wilson  
Ashley Vogue  
Kim Burns  
Sushan T Jain  
Julia Lin

**The following individuals spoke in opposition to the proposal, and were not identified as property owners:**

Michael Fall on behalf of HART 1800 North Avenue LLC  
Kai Ens  
Scott Darlage  
Jonathan Mark  
Lui Watt  
Joseph Dillon  
Welt Saveland  
Alex T. Silverman  
Jackson Diller  
Myer Harrell

#### **IV. Written Comment**

**The following commenters own property or operate a business within the proposed boundary of the waterfront LID, and wrote in opposition to the proposal:**

Karin Philokin  
Vasanth Pilokin  
Wally Kegel  
William Kepper  
Gene Liddell  
Peter Lee  
Robert Stevens  
Waterfront Landings Condominium Association  
Denise Gaffney Neu  
William Patton  
Joni Ostergaard  
Board of Directors of the Waterfront Place Building Residential Condominium  
Stephen Scott Hubbard and Maureen Therese Hubbard  
Tim Zhang  
Jody Lovell  
Ashley Vogel  
Gary Owen  
Mary Magnano Smith  
Ray Sato  
Judith Wood  
Lynn and Charlie Meyer  
Steve Danishek and Dee Tezelli  
William and Mary Susan Pitlick  
Henner Krueger and Karen Merola Krueger  
Brian Britton Simmons  
Marilyn Sellers  
Paul and Jean Henderson  
Robert and Diane Tichy  
Jagjeet and Janice Bindra  
Steve Danishek  
Susan Murphy  
Alec Brindle  
Rebecca Laszlo  
Sara Intriligator  
Gene Liddell  
Elizabeth Kanny  
Britt L. Tinglum and other residents at the Watermark Tower  
John Bates

William Justen  
Mary Moreno  
Karen Gielen  
Dan Wilson  
Three Girls Bakery  
World Spice Merchants  
Diva Furniture  
Timothy DeCure Collection  
Riot Athletics  
Spring Thyme Bakeshop  
Pike Place Market Creamery  
Pasta Casalinga  
Alhambra  
Okinawa Teriyaki  
Quality Cheese Inc.  
Britt's Pickles  
Couturalle  
Fenerie Style Studio  
Diane's Market Kitchen  
Modern Design Sotes  
Westview Nails  
Sosios  
PureFood Fish Market  
Sandylew  
Mary K. Montgomery for Magnolia Community Council  
Queen Anne Community Council  
Erlinda Partridge  
Kai Reynhardt  
Armandino and Marilyn Batall  
Stefanie Ann Choi  
James Cline  
Robert and Patricia Thompson  
Javad Shirazi  
Robert and Susan Turner  
Nancy Dorn  
Carol Verga  
Charlotte Clay  
Stephen Sandberg  
Carol Brown  
Pamela and Guri Roesijadi  
Robin Eng and Susan Huntington  
Stephen and Maureen Hubbard

W Benson Harer  
Bernice Kegel  
Aline Flower  
James Brashears  
Jonathan Mark  
Elisabeth Ely  
Sunny Liao  
Diego Martinez  
Jeff Homiak  
Robert Handlin for B&E Investments LLC  
Karen Cobb  
Kirsten Smith  
Karin Koonings  
Joe Matthys  
Robert Pavalunas  
Jim and Dana Lazo  
Deborah Cohen  
Tara McCauley  
Jean M. Bateman  
Karel Reeves  
Brian Patch  
Alex and Sally Yan  
Steve Goldblatt  
David Shih  
Paulette Adams  
Pat Carlin  
Gabrielle Tellier  
Jon Kiehna  
Denise Doveri  
Bill Pearson  
Sarah Norton  
Alec Brindle  
Kai Reynhardt  
Tomsz Pozarycki  
Janet Thompson  
Mark Stepich  
Birney Dempcy  
Meredith England-Markun  
Faizal Kassamali  
Melody Anderson Wisdorf  
Dana Papes  
Ted Tanase

Paula Wong  
Cara Bailey  
Nancy Dorn  
Steve Weick  
Aaron Long  
Jan Nogales  
Gregory DiGiacomo  
Debra Lowe  
Shauna Mazzulla  
Yugala Priti Wright  
Stefanie Choi  
Xiaowei Cao  
Steve Weick  
Anne Repass  
Bob Thompson  
Kate Butler  
Susan Rudolph-Loos  
Greg Aden  
Elizabeth Kanny  
John Jenkins  
Dorothy Ling  
Eric Faison  
Carol Kupyn  
Sharyn Bozied  
Myra Friedman  
Leslie Haynes  
Gene Burrus  
Haley Shapley  
John Fogg  
David and Nancy Hughart  
Mark Snapp  
Karen Wong  
James Harold Shutt  
Michael Crum  
Madeleine Brindle  
Dawn Onesty  
Phyllis Leventhal  
Karla Litzenberger  
Christian Scherp  
Joyce Chang Hsu  
suma kosami  
Joan Bayley



Philip Bayley  
Donald Patrick  
Miller Freeman III  
Susan Huntington  
Mike Salzberg  
Sandy Justen  
Tammy Ayyoub  
Randy Loomans  
Knut Ringen  
Chris Wall  
Steve Coyne  
Margaret Mizumoto  
Shirley Beresford  
Scott McCallum  
Danno Muggli  
Pamela and Guri Roesijadi  
The Waterfront Coalition  
Ed Marquand  
Zachary Pesicka  
Bernard J. Glynn, Jr.  
Jill and Rod Hearne  
David Dwyer  
Lou Bond  
Gene Leverty  
Jeanette Johnson  
Karen Davis  
Tim Jacox  
Jean Schiedler-Brown  
Richard Prideaux K.  
Marybeth Austin  
M Jim Yamaguchi  
Fran Hartmann  
William and Virginia Kaczmarek  
Elon Slutsky  
Maureen Miller  
Ruth Warren  
Cynthia Marin  
American Life, Inc.  
Hilton Garden Inn-Downtown Seattle  
Valerie Heide Mudra  
Sheila Kramer  
Emily Krisher


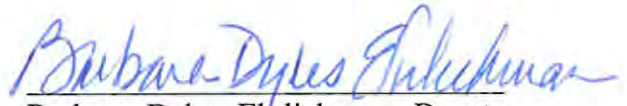
Curt & Aiko Cunningham  
Scott Buch  
Carol Ure  
Cindy Buchanan  
Mark McInerney.  
Sarah Kraja Wall  
John Ellis and Veronica Buffington  
Clint Bennett  
Orville Tice and Wendy Paul  
Walt Saveland  
Preben & Nicole Martin  
Robert S. Stevens  
Claus Gehner  
Javier Tordable  
Pat Carlin  
Mike Pyatok  
Ridge Marshall  
Roger J Bass  
Richard Nelson  
Kirk Greene  
Douglas Kelbaugh  
Theresa and Joseph Bowen  
Steve Coulter  
Jane Richlovsky  
Heidi Broadhead  
Ann Pearce  
Penny Swanberg  
Brian and Elizabeth Frederick  
Dave Jacobs  
Danette Glassy  
Paul Topping  
Karel Reeves  
Matthew Tedesco  
Joanne Lorello  
Adele Avant  
Nick Micskey

**The following commenters wrote in support of the proposal:**

Michelle Connor for Forterra  
AIA Seattle  
Colleen Robertson  
Beverly Martin

Catherine Eaton Skinner  
James Uhler  
Kevin Geiger  
Alida Latham  
Eunjean Song  
Benjamin Burrill  
Teresa Bigelow  
Jane Nelson  
Steven Clifford  
Aimee O"Carroll  
Michaela Ayers  
Patrick Gordon  
Carol Binder  
Gabriela Alban  
Jared Smith  
Forest Eckley  
Janice Sutter  
The Trust for Public Land  
Heather Redman  
Thatcher Bailey  
Woodland Park Zoo  
Scott Bonjukian  
The Nature Conservancy  
Estela Ortega  
Friends of Waterfront Seattle  
Linda Mitchell

Respectfully submitted, this 31<sup>st</sup> day of August, 2018.

  
\_\_\_\_\_  
Ryan P. Vancil, Hearing Examiner  
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Barbara Dykes-Ehrlichman, Deputy  
Hearing Examiner