

OFFICE OF THE HEARING EXAMINER
CITY OF TACOMA

In the Matter of:

**Formation of Proposed
Local Improvement District No. 8668**

FILE NO. HEX2025-006

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

A **PUBLIC HEARING** in the above-captioned matter was held on February 10, 2025, before JEFF H. CAPELL, the Hearing Examiner for the City of Tacoma (“City”). At the conclusion of the proceedings, the Hearing Examiner held the record until February 18, 2025, to give property owners within the proposed Local Improvement District boundaries (the “LID Area” defined further at Findings of Fact 2 and 3 below¹), an opportunity to register support or opposition to their respective segment.²

The following property owners from the proposed Local Improvement District’s boundaries testified at the hearing:

- James Maniatis, 2702 N. Carr Street (Segment 2)
- Lana Cooper, 4337 Pacific Avenue (Segment 3)
- Brian M. Berg, 2319 N. 27th Street (Segment 2)
- April Davis, 2620 N. Carr Street (Segment 2).

Ralph Rodriguez, City LID Administrator, testified for the City.³

¹ Findings of Fact are cited hereafter using the abbreviation “FoF.”

² Ultimately, only protest votes are counted for final consideration under the statutory sources cited herein. This was explained at the hearing.

³ All listed individuals’ testimony will be cited using last names only.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

1 The Examiner, having considered the testimony and evidence presented, having
2 reviewed the file, and being otherwise fully advised, makes the following:

3 **FINDINGS OF FACT:**

4 1. On December 17, 2024, the Public Works LID Administrator and the Public
5 Works Director jointly submitted a City Council Memorandum that brought a resolution before
6 the Tacoma City Council to set Local Improvement District 8668's formation hearing before
7 the Hearing Examiner. On January 7, 2025, the Tacoma City Council adopted Resolution No.
8 41592 (the "Hearing Resolution"), which acknowledged receipt of Advisory Survey Nos.
9 8553, 8599 and 8619, and set February 10, 2025, as the hearing date regarding the potential
10 formation of Local Improvement District 8668 (the "LID" or "LID 8668").⁴ The formation
11 hearing was scheduled to consider ordering the local improvements described below and to
12 provide for paying the cost of such improvements by imposing and collecting special
13 assessments upon the real property that would be specially benefitted from those
14 improvements. The proposed LID would also provide for a long-term financing option for the
15 improvements.

16 2. The Hearing Resolution is incorporated herein by reference as though fully set
17 forth. The LID Area is legally described in the fourth recital (WHEREAS clause) of the
18 Hearing Resolution, which legal description is incorporated below in Finding of Fact 4. *Ex. C-*
19 *1, Ex. C-15, Ex. C-16.*

20 3. The locations included in LID 8668, and the improvements proposed, are grouped
21 by "segments," and are described generally as follows:

⁴ It should be understood throughout this Recommendation that the LID is as yet just proposed, and not yet approved for formation.

1 Construction of street pavement, with a structural section, curbs, gutters,
2 and storm drainage, on:

3 **Segment 1** – Wapato Street from South 66th Street to South 68th
4 Street.

5 **Segment 2** – North 27th Street from Carr Street west to the dead end.

6 Construction of alley pavement, with a structural section, and storm
7 drainage, on:

8 **Segment 3** – The alley between Bell Street and Pacific Avenue from
9 South 43rd Street to South 45th Street. *Rodriguez*
10 *Testimony; Ex. C-1.*⁵

11 4. At the time the Advisory Surveys⁶ were conducted, the following levels of
12 support were recorded:

13 **Segment 1** – 61.2 percent signed the Advisory Survey No. 8619;

14 **Segment 2** – 91.2 percent signed the Advisory Survey No. 8553; and

15 **Segment 3** – 55.26 percent signed the Advisory Survey No. 8599. *Id.*;
16 *Ex. C-2~C-14.*

17 5. The Hearing Resolution states that other improvements in the overall project may
18 include driveway entrances, wastewater lateral connections from the wastewater main to the
19 property line, the removal and planting of trees, and all other work necessary to complete the
20 same in accordance with plans and specifications to be prepared by the Tacoma City Engineer.
21 *Rodriguez Testimony; Ex. C-16.*

6. Pursuant to applicable laws, and at the direction of the Tacoma City Council
through the Hearing Resolution, the Hearing Examiner convened a public hearing on

⁵ The improvements just described for all segments are hereafter referred to collectively as the “Improvements.”

⁶ Advisory Surveys are a preliminary tool used to gauge support for LID formation. By the time of the hearing and the City Council’s decision, protest votes are all that is counted. *RCW 35.43.180.*

1 February 10, 2025, to consider the formation of LID 8668. *Revised Code of Washington*
2 (*"RCW"*) 35.43.150; *Ex. C-1*.

3 7. The proposed boundary of the LID, broken out by segments, is legally described in
4 the Hearing Resolution as follows:

5 **[Segment 1] – Wapato Street from South 66th Street to South 68th Street**
6 **- Construction of street pavement, with a structural section, curbs, gutter**
7 **and storm drainage.**

8 Those portions of the Northwest Quarter of the Northeast Quarter
9 of Section 30, Township 20 North, Range 03 East, W.M., more
10 particularly described as follows:

11 Commencing at a stone monument at the Southeast corner of **Unity Addition**
12 **to Tacoma**, according to the plat thereof recorded in Volume 5 of Plats, Page
13 37, records of Pierce County, Washington;

14 Thence running East along the South line of said Northwest Quarter 660.73
15 feet to a cased brass survey disk marking the Southeast corner of said
16 Northwest Quarter;

17 Thence North 146.27 feet along the monument line of Wapato Street and West
18 40 feet to a point on the West margin of said Wapato Street per County
19 Treasurer's Deed recorded under Recording No. 1526417, records of Pierce
20 County, Washington, said point being the True Point of Beginning;

21 Thence North along said West margin to the South margin of South 66th
Street;

Thence West along said South margin 120 feet more or less to the East margin
of a 10-foot wide alley per said County Treasurer's Deed;

Thence South along said East margin and the southerly projection thereof, to a
point 120 feet more or less West of said Point of Beginning;
Thence East 120 feet more or less to Point of Beginning.

TOGETHER with City of Tacoma Short Plat MPD2003-00042 recorded
under Recording No. 200403245004, records of Pierce County, Washington.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

1 And TOGETHER with those portions of said Northwest Quarter lying
2 between the East margin of Wapato Street as defined by City of Tacoma
3 Warranty Deeds recorded under Recording No.'s 1509344, 1509373,
4 1509371, 1509375 and 1509346, and a line 200 feet East of and parallel with
5 said East margin, between the South margin of South 66th Street and the
6 North margin of South 68th Street.
7 EXCEPT the East 40 feet of the North 120 feet of said 200 feet abutting the
8 East margin;

9 And EXCEPT the South 120 feet of the North 240 feet of said West 200 feet
10 abutting the East margin;

11 And EXCEPT the East 80 feet of the South 50 feet of the North 290 feet of
12 said West 200 feet abutting the East margin;

13 And EXCEPT the East 21.57 feet of the South 60 feet of the
14 North 480 feet said West 200 feet abutting the East margin;

15 And TOGETHER with City of Tacoma Short Plat MPD2007-40000088250
16 recorded under Recording No. 200906125003, records of Pierce County,
17 Washington.

18 Situate in the City of Tacoma, County of Pierce, State of
19 Washington.

20 **[Segment 2] - North 27th Street from Carr Street west to the dead end -**
21 **Construction of street pavement, with a structural section, curbs, gutter**
and storm drainage.

Those portions of the North half of the Northeast Quarter of Section 31,
Township 21 North, Range 03 East, W.M., more particularly described as
follows:

Lots 8 through 12, Block 25, the North 40 feet of Lots 1 through 3, and all of
Lots 4 and 5, Block 30, all within **Job Carr's First Addition to Tacoma**
City, according to the Plat recorded in Volume 1, Page 13, filed April 19,
1873, records of the Pierce County, Washington.

TOGETHER with that portion Beginning at the Northeast corner of the
Northwest Quarter of said Northeast Quarter, Thence West 132 feet, Thence

1 South 265 feet, Thence East 132 feet, Thence North 265 feet to the Point of
2 Beginning.

3 EXCEPT those portions deeded for street purposes per Quit Claim Deeds to
4 City of Tacoma recorded under Recording numbers 860513401, 8605130402
5 and 8605113403, records of Pierce County, Washington.

6 Situate in the City of Tacoma, County of Pierce, State of
7 Washington.

8 **[Segment 3] - Alley between Bell Street and Pacific Avenue from South**
9 **43rd Street to South 45th Street – Construction of alley pavement, with a**
10 **structural section, and storm drainage.**

11 Section 31, Township 21 North, Range 03 East, W.M., more particularly
12 described as follows:

13 Lots 8 through 12, Block 25, the North 40 feet of Lots 1 through 3, and all of
14 Lots 4 and 5, Block 30, all within **Job Carr's First Addition to Tacoma**
15 **City**, according to the Plat recorded in Volume 1, Page 13, filed April 19,
16 1873, records of the Pierce County, Washington.

17 TOGETHER with that portion Beginning at the Northeast corner of the
18 Northwest Quarter of said Northeast Quarter, Thence West 132 feet, Thence
19 South 265 feet, Thence East 132 feet, Thence North 265 feet to the Point of
20 Beginning.

21 EXCEPT those portions deeded for street purposes per Quit Claim Deeds to
City of Tacoma recorded under Recording numbers 860513401, 8605130402
and 8605113403, records of Pierce County, Washington.

Situate in the City of Tacoma, County of Pierce, State of Washington. *Ex. C-1,*
Ex. C-16.

8. Notices of Public Hearing for the LID were mailed on January 10, 2025, to all
owners of record within the LID Area, as such are listed on the Pierce County property tax
rolls. The Hearing Resolution was published on January 9 and 10, 2025, in the Tacoma Daily
Index. An Affidavit of Publication has been filed with the City Clerk, together with plans and

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

estimates required by applicable laws. *RCW 35.43.150; Rodriguez Testimony; Ex. C-1, Ex. C-17~C-19.*

9. For purposes of statutory application (*RCW 35.43.130~.150*), LID 8668 is procedurally a City initiated LID, regardless of whether initial interest and some property owner efforts played a part in starting the process toward the potential formation of this LID.⁷ *Rodriguez Testimony.*

10. City staff calculated the estimated assessments using a modified zone and termini method. *Rodriguez Testimony; Ex. C-1.*

11. The City Public Works Department's LID Section (the "LID Section"), prepared a report regarding the Improvements and the formation of the LID. The LID Section's report (*Exhibit C-1*) indicates the estimated project cost for LID 8668 as follows by Segment:

Segment 1

Total Assessed to Property Owners	\$247,073.45
Streets Initiative	<u>\$276,367.40</u>
Estimated Segment Cost	\$523,440.85

Segment 2

Total Assessed to Property Owners	\$126,530.80
Streets Initiative	<u>\$217,129.50</u>
Estimated Segment Cost	\$343,660.30

Segment 3

Total Assessed to Property Owners	\$408,330.60
Estimated Segment Cost	\$408,330.60

12. The estimated total amount is presumed to include associated costs for engineering, inspection, and termination. Also presumed included are estimated costs for such things as a special benefit study, LID administration expenses, and City interim financing. The

⁷ This finding could probably be considered a Conclusion of Law, but it is based on the facts of how the LID was moved forward for formation—by resolution and not petition—and it serves the narrative by inclusion here.

1 LID is proposed to have a 20-year assessment roll/repayment period, and the estimated cost per
2 Assessable Unit Frontage (AUF) is (a) \$190.00 for Segment 1, (b) \$200.00 for Segment 2 and
3 (c) \$425.00 for Segment 3. *Rodriguez Testimony; Ex. C-1.*

4 13. Prior to the hearing, only one property owner had registered a protest to the
5 formation of Segment 2 of the LID. *Letter of James Maniatis dated February 4, 2025.*

6 14. The four above listed property owners (*see page 1*) from the LID Area testified at
7 the hearing. Others used the “chat” function in the Zoom hearing room to record their support
8 for, or opposition to formation, as well as to ask questions that Rodriguez addressed during the
9 City’s rebuttal testimony.

10 15. The protest percentages recounted herein below were current as of the issuance of
11 this Recommendation. Attachment A shows the protesting property owners by Segment.

12 16. The digital audio and video recording of the hearing in this matter are in the
13 custody of the Examiner's Office. The file is in the custody of the City Clerk. Both are
14 available for review by the City Council and any interested party.

15 17. Any Conclusion of Law set forth below, which may be more properly deemed to
16 be a Finding of Fact herein is hereby adopted as such.

17 From these Findings of Fact the Examiner makes the following:

18 **CONCLUSIONS OF LAW:**

19 1. The Hearing Examiner has been duly appointed to conduct the required public
20 hearing in this matter and to make a recommendation to the City Council pursuant to RCW
21 35.43.140, Tacoma Municipal Code (“TMC”) 1.23.050.A.2, and TMC 10.04.026.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

1 2. The state legislature has determined that the construction of improvements such
2 as the Improvements proposed here is appropriately accomplished through a Local
3 Improvement District. *RCW 35.43.040*.

4 3. The purposes of the initial hearing in regard to formation of an LID are to
5 determine if the formation of the district should proceed and if the limits of the district are
6 proper. *Chandler v. City of Puyallup*, 70 Wash. 632, 633, 127 P.293 (1912). Accordingly, the
7 only issues properly presented during the formation stage of the LID process are:

8 (a) Whether the City has jurisdiction or authority to proceed with creating the
9 district; and

10 (b) Whether the boundaries of the proposed district are proper.

11 *Underground Equality v. Seattle*, 6 Wn. App. 338, 342, 492 P.2d 1071 (1972).

12 4. It is presumed that a local improvement benefits property unless the challenging
13 party produces competent evidence to the contrary. The burden of proof shifts to the City only
14 after the challenging party presents expert appraisal evidence showing that the property would
15 *not* be benefited by the improvement. *Seattle v. Rogers Clothing for Men*, 114 Wn.2d 213, 231,
16 787 P.2d 39, 48, (1990). While some property owners stated their opinions that their property
17 would not benefit from the Improvements, none supported these contentions with appraisal
18 evidence. Ultimately, the level of benefit to all property owners will be determined when the
19 assessment roll is finalized after the Improvements are completed, if the City Council
20 authorizes formation.

21 5. No party to these proceedings has raised a challenge to the City's authority to

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

1 create LID No. 8668 under the terms of RCW Chapter 35.43, except insofar as property
2 owners have protested the formation.

3 6. The City's authority to create an LID initiated by resolution, as is the case here,
4 can be divested if owners of property shouldering a sufficient percentage of the estimated
5 project costs protest formation of the district, as set forth here:

6 **35.43.180 Restraint by protest.** The jurisdiction of the
7 legislative authority of a city or town to proceed with any local
8 improvement initiated by resolution *shall be divested by a*
9 *protest filed with the city or town council within thirty days from*
10 *the date of passage of the ordinance ordering the improvement,*
11 *signed by the owners of the property within the proposed local*
12 *improvement district or utility local improvement district subject*
13 *to sixty percent or more of the total cost of the improvement*
14 *including federally-owned or other non-assessable property as*
15 *shown and determined by the preliminary estimates and*
16 *assessment roll of the proposed improvement district or, if all or*
17 *part of the local improvement district or utility local*
improvement district lies outside of the city or town, such
jurisdiction shall be divested by a protest filed in the same
manner and signed by the owners of property which is within the
proposed local improvement district or utility local improvement
district but outside the boundaries of the city or town, and which
is subject to sixty percent or more of that part of the total cost of
the improvement allocable to property within the proposed local
improvement district or utility local improvement district but
outside the boundaries of the city or town, including federally-
owned or other non-assessable property: . . . (Emphasis added.)
RCW 35.43.180.

18 7. In addition to the foregoing state law, the City of Tacoma has further limited its
19 authority to proceed with formation of an LID in the face of protest by adopting Resolution No.
20 37956, which expresses the Council's policy to refrain from forming an LID if property owners
21 //

1 representing 50 percent or more of the total assessments protest formation. This policy contains
2 an exception allowing formation if the City Council has previously determined the LID to be in
3 the best interest of the City.

4 8. Since the rate of protest against formation of LID No. 8668 for any given
5 Segment does not rise above 50 percent,⁸ the City policies and state statutes regarding LIDs
6 and permanent paving support formation of all Segments of the proposed LID.

7 9. Although contested by some, the benefits of the Improvements are special to those
8 properties proposed for inclusions and, accordingly, they have been properly included within
9 the boundaries of proposed LID No. 8668.

10 10. Based on the foregoing, the Hearing Examiner concludes that proposed LID No.
11 8668 meets the requirements of state law and the City's ordinances and policies governing LID
12 formation, thereby authorizing the LID to be formed, and the Examiner recommends the same.

13 11. Any Finding of Fact stated herein above which may be more properly
14 considered or deemed to be a Conclusion of Law is hereby adopted as such.

15 Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing
16 Examiner enters the following recommendation:

17 **RECOMMENDATION:**

18 Based on applicable Tacoma City Council ordinances and policies and controlling state
19 law with respect to the formation of local improvement districts for street and alley
20 improvements, the Hearing Examiner recommends the City Council approve the formation of

21 //

1 proposed Local Improvement District No. 8668.

2 **DATED** this 24th day of February, 2025.

3 
4 **JEFF H. CAPELL, Hearing Examiner**

21
⁸ Again, by the time of finalizing this Recommendation, the percentage of protest are 23.54% for Segment 1, 28.45% for Segment 2, and 38.89% for Segment 3. This figure for Segment 3 takes into account all protesters even though standing to protest was not completely clear for 4338 South Bell Street.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

NOTICE

RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION

RECONSIDERATION:

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the Office of the Hearing Examiner requesting reconsideration of a decision or recommendation entered by the Hearing Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Hearing Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday, the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Hearing Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Hearing Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code* 1.23.140)

APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:

Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved person or entity having standing under the ordinance governing such application and feeling that the recommendation of the Hearing Examiner is based on errors of procedure, fact or law may have the right to appeal the recommendation of the Hearing Examiner by filing written notice of appeal and filing fee with the City Clerk, stating the reasons the Hearing Examiner's recommendation was in error.

APPEALS SHALL BE REVIEWED AND ACTED UPON BY THE CITY COUNCIL IN ACCORDANCE WITH TMC 1.70.

GENERAL PROCEDURES FOR APPEAL:

The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all of these procedures here, you should be aware of the following items which are essential to your appeal. Any answers to questions on the proper procedure for appeal may be found in the City Code sections cited above:

1. The written request for review shall also state where the Examiner's findings or conclusions were in error.
2. Any person who desires a copy of the electronic recording must pay the cost of reproducing the tapes. If a person desires a written transcript, he or she shall arrange for transcription and pay the cost thereof.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

LID 8668 Protest - Segment 1

Parcel Number	Owner	Site Address	Assmt Amount	Percentage	Cumulative Total	Cumulative Percentage
03-20-30-1-017	Daniel Trullinger	6601 S Wapato Street	\$20,873.20	8.45%		
03-20-30-5-047	Lisa M & Brandon M Ault	6611 S Wapato Street	\$23,398.15	9.47%	\$44,271.35	17.92%
03-20-30-1-188	Donna J Thomas	6635 S Wapato Street	\$12,918.85	5.23%	\$57,190.20	23.15%
03-20-30-1-132	Richard A & Diane Y Bell	6637 S Wapato Street	\$15,801.90	6.40%	\$72,992.10	29.54%

Total Assessment \$ 247,073.45

LID 8668 Protest - Segment 2

Parcel Number	Owner	Site Address	Assmt Amount	Percentage	Cumulative Total	Cumulative Percentage
287000-004-0	Tye & Katherine Minckler	2307 N 27th Street	\$9,999.60	7.90%		
287000-005-0	Geraldine Maniatis A Living Trust	2702 N Carr Street	\$9,999.60	7.90%	\$19,999.20	15.81%
287000-006-0	April Davis	2620 N Carr Street	\$16,000.00	12.65%	\$35,999.20	28.45%

Total Assessment \$ 126,530.80

LID 8668 Protest - Segment 3

Parcel Number	Owner	Site Address	Assmt Amount	Percentage	Cumulative Total	Cumulative Percentage
747002-232-0	Kara S Sale & Evan K Aeschlimann	4322 S Bell Street	\$16,715.65	4.09%		
747002-236-0	Gelder B & Donelle Griffith	4336 S Bell Street	\$16,715.65	4.09%	\$33,431.30	8.19%
747002-239-0	Victor M Zapata-Ramirez &	4305 Pacific Avenue	\$16,715.65	4.09%	\$50,146.95	12.28%
747002-243-0	Michael W & Ginny M Agnew	4319 Pacific Avenue	\$16,715.65	4.09%	\$66,862.60	16.37%
747002-246-0	Hazelle I A Gjerde	4327 Pacific Avenue	\$25,073.70	6.14%	\$91,936.30	22.52%
747002-247-0	Hazelle I A Gjerde	4335 Pacific Avenue	\$25,073.70	6.14%	\$117,010.00	28.66%
747002-248-0	Lana Cooper	4337 Pacific Avenue	\$20,894.70	5.12%	\$137,904.70	33.77%

Total Assessment \$ 408,330.60

747002-237-0	Marlene Buffington Living Trust	4338 S Bell Street	\$20,894.70	5.12%		38.89%
--------------	---------------------------------	--------------------	-------------	-------	--	--------

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**