



City of Tacoma
Hearing Examiner

August 7, 2013

Ralph Rodriguez, L.I.D. Administrator
City of Tacoma
747 Market Street Room 620
Tacoma WA 98402

John and Shirley Read
820 N Stadium Way
Tacoma WA 98403

Re: Assessment Roll - Local Improvement District No. 7724

Enclosed please find your copy of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation to the Tacoma City Council in regard to the above referenced matter as the result of a hearing held on July 25, 2013.

Sincerely,

LOUISA LEGG
Legal Assistant

Enclosure

cc: City Clerk, City of Tacoma
Liz Wheeler, Customer Service Rep. Tech., Finance Department, City of Tacoma

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid or via delivery through City of Tacoma Mail Services to the parties or attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED August 7 2013, at Tacoma, WA.

Louisa Legg

1 **OFFICE OF THE HEARING EXAMINER**

2 **CITY OF TACOMA**

3 **In the Matter of:**

4 **LOCAL IMPROVEMENT DISTRICT**
5 **NO. 7724**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION
(ASSESSMENT ROLL)**

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7
8 **A PUBLIC HEARING** in the above-captioned matter was held on July 25, 2013,
9 before PHYLLIS K. MACLEOD, the Hearing Examiner for the City of Tacoma. The City of
10 Tacoma appeared through Ralph Rodriguez, Local Improvement District (L.I.D.)
11 Administrator for the City's Department of Public Works. John R. Trueman, author of a
12 Special Benefit Study of the L.I.D. improvements, appeared and testified regarding the
13 methodology of the study he prepared. Shirley Read, an owner of property within the L.I.D.,
14 appeared and testified. The Hearing Examiner, having considered the evidence presented,
15 having reviewed the records and files in the case, and being otherwise fully advised, makes the
16 following:

17 **FINDINGS OF FACT:**

18 1. On April 22, 2008, the Tacoma City Council adopted Ordinance No. 27709,
19 which provided for the formation of L.I.D. No. 7724. Ordinance No. 27709 called for a public
20 work and improvement consisting of a conversion of the existing overhead electrical primary,
21 telephone, and cable television lines to underground along Stadium Way from the intersection
22 of Stadium Way and Borough Road northwesterly to the dead end, together with all other

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1 work necessary to complete the project in accordance with maps, plans, and specifications
2 prepared and on file in the Office of the Director of Public Works. Ordinance No. 27709 is
3 incorporated herein by reference as though fully set forth.

4 2. The Assessment Roll for Local Improvement District No. 7724 was filed in the
5 Office of the City Clerk on June 18, 2013, and the same shows the amount assessed against
6 each lot and parcel of land in payment of the cost and expense of the improvements previously
7 referred to, and said roll has been opened for inspection by all parties interested therein.

8 *Rodriguez Testimony.*

9 3. The Notice of the Assessment Roll Hearing was published as required by law,
10 and an Affidavit of Publication has been introduced into evidence. *Ex. 2.* All procedures as
11 provided for by law with respect to adoption of the Assessment Roll have been taken,
12 including, but not limited to, mailing notices to owners of record on June 26, 2013. *Ex. 1;*
13 *Ex. 3.*

14 4. Pursuant to applicable laws and the direction of the Tacoma City Council, a
15 public hearing on the Assessment Roll was held by the Hearing Examiner on July 25, 2013.

16 5. Ralph Rodriguez, L.I.D. Administrator for the City's Department of Public
17 Works, testified that the improvements have been completed in accordance with the plans and
18 specifications for such work. The final project cost is \$183,313.54 compared to the estimated
19 project cost of \$230,153.88. The final total assessed to property owners is \$145,033.60.
20 Certain cost savings were realized during construction and the Department of Public Utilities
21 contributed \$38,279.94. This is a 20-year Assessment Roll. *Rodriguez Testimony; Ex. 1.*

22

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1 6. A modified zone & termini formula was initially used to estimate the L.I.D.
2 assessments. *Rodriguez Testimony*. The Assessable Units of Frontage (A.U.F.) per parcel
3 were calculated by the City using mathematical quotients set forth in state statute at RCW
4 35.44.040. The square footage of each parcel is divided into zones based upon the zone's
5 proximity to the improvement being constructed. An A.U.F. figure for each parcel in L.I.D.
6 7724 was identified based upon the lot size and zone configuration. *Ex. 11*.

7 7. The City applied an additional adjustment to the A.U.F. calculation based on
8 whether the property fell within one of three benefit categories: (1) Neighborhood
9 Improvement for parcels where the wires/poles removed were not within their primary view
10 corridor, (2) View Improvement for a parcel receiving a great deal of benefit from removal of
11 the overhead utility lines from their primary view corridor; and (3) View and Neighborhood
12 Improvement for parcels obtaining both a benefit to their primary views and a benefit from
13 directly abutting the improvements. The City adjusted the A.U.F. figures for each category to
14 reflect the degree of benefit accorded the type of parcel. *Ex. 10*. The actual costs expended on
15 the project were then allocated to the parcels based on this calculated benefit. *Ex. 11*.

16 8. The final assessment was supported by a Special Benefit Study prepared by
17 Trueman and Associates, a real estate appraisal and consulting firm. *Ex. 4*. The Special
18 Benefit Study demonstrates that the fair cash market value of each parcel of property benefited
19 by L.I.D. No. 7724 has been increased in an amount equal to or greater than its assessment.
20 *Ex. 4*.¹

21 _____
22 ¹ The appraisal firm recommended that the City reduce the assessment on the Read parcel to assure that the
assessment fell below the \$25,000 increase in value attributable to the improvements as determined by the Special
Benefit Study. *Trueman Testimony*. The Reads' assessment on the final roll is \$19,952.05. *Ex. 4*.

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1 9. Shirley Read, an owner of property within L.I.D. No. 7724, appeared to contest
2 the assessment on the lot she and her husband own on Stadium Way. The Reads previously
3 protested the inclusion of their property in the L.I.D. during the formation phase of this
4 project. They live across Stadium Way from the power lines involved and the cul-de-sac
5 improved by this L.I.D. While the Reads acknowledge the utility project resulted in some
6 improvement of the view from their property, they believe their assessment is
7 disproportionately high compared to the benefits realized by properties fronting on the
8 improved cul-de-sac. *Read Testimony; Ex. 7.* The Reads did not present any expert appraisal
9 testimony challenging the calculation or appraisal methodology the City used to develop the
10 Assessment Roll.

11 10. The Reads' assessment was based upon the A.U.F. figure calculated using the
12 square footage in each zone on their property. The Reads' property contains more square
13 footage than many of the other lots in the L.I.D. which led to a relatively high A.U.F. figure.
14 The view improvement factor applied to their property was based on a benefit to their primary
15 view, as contrasted to those properties that received only a neighborhood benefit and not a
16 view improvement. The Reads' adjustment constituted a reduction from the rate applied to
17 those properties enjoying a benefit to both view and neighborhood improvement.
18 Nevertheless, the Reads' assessment was more than most due to the square footage of their lot.
19 *Ex. 10; Ex. 11.*

20 11. The verbatim digital recording of the hearing is in the custody of the Hearing
21 Examiner's Office, and the file is in the custody of the City Clerk; and both are available for
22 review by the Council and any interested party.

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1 **NOTICE**

2 **RECONSIDERATION/APEAL OF EXAMINER'S RECOMMENDATION**

3 **RECONSIDERATION:**

4 Any aggrieved person or entity having standing under the ordinance governing the matter, or as
5 otherwise provided by law, may file a motion with the Office of the Hearing Examiner requesting
6 reconsideration of a decision or recommendation entered by the Hearing Examiner. A motion for
7 reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law
8 and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of
9 the Hearing Examiner's decision/recommendation, not counting the day of issuance of the
10 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*)

11 **APEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:**

12 Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved
13 person or entity having standing under the ordinance governing such application and feeling that the
14 recommendation of the Hearing Examiner is based on errors of procedure, fact or law shall 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.

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

17 **GENERAL PROCEDURES FOR APPEAL:**

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

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

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