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In the matter of:

File No.: HEX 2014-025

Local Improvement District No. 8648

**MATTHEW AUSTIN'S WRITTEN
COMMENTS IN SUPPORT OF HIS
APPEAL**

Matthew Austin, by and through his attorney, Nigel Malden, hereby submits written comments in support of his appeal of the written recommendation of Hearings Examiner, Phyllis K. McCleod, dated March 9, 2015.

I. RELIEF REQUESTED/GROUNDS FOR APPEAL

Mr. Austin asks the City Council to reject the LID assessment recommended by Hearing Examiner, Phyllis K. McCleod on the grounds that it is not supported by substantial evidence in the record developed below.

Specifically, the Examiner's recommendation is based on a deeply flawed appraisal process and report so riddled with conceptual and computational errors and bias that it cannot legally be used substantiate or justify a LID assessment.

II. BACKGROUND FACTS

Mr. Austin bought the 2,500 square foot triplex at issue in this case for \$327,500 in 2007.¹ Mr. Austin and his wife reside in one 895 square foot unit and they rent out the other two units for \$825.00 to \$840.00 per month.

¹ The triplex is located at the southeast corner of S. Madison and S. 69th Street. The address is 6901 S. Madison Street.

**BRIEF OF MATTHEW AUSTIN IN SUPPORT OF
APPEAL TO THE CITY COUNCIL**

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ORIGINAL

1 In 2007, S. 69th Street was a gravel road. Mr. Austin liked the gravel road and had no
2 idea a LID assessment was pending. Had the seller disclosed the situation accurately, Mr. Austin
3 would not likely have bought the property.

4
5 The Hearing Examiner concluded that the new road installed by the city confers a
6 substantial value onto Mr. Austin's property justifying an assessment of \$36,780.50. But, the
7 Examiner's conclusion hinged on a real estate appraisal process and report riddled by conceptual
8 and computational errors and outright bias.²

9
10 **III. ARGUMENT**

11 **THE HEARING EXAMINER'S RECOMMENDATION HAS NO SUBSTANTIAL**
12 **EVIDENTIARY SUPPORT IN THE RECORD.**

13
14 The petitioner acknowledges that the Hearing Examiner spent considerable time and
15 made considerable effort to obtain and review extensive documentation and evidence. He has no
16 complaint about the hearing process itself. The complaint here is that the Examiner accepted the
17 ultimate conclusions of the City's appraiser despite all of his mistakes that rendered his
18 conclusions worthless.

19
20 For example, Mr. Austin proved that the City's appraiser used grossly inaccurate square
21 footage numbers in his analysis of "comparable" properties. This caused gross errors in
22 calculating relative or comparable values which irreparably taints the whole appraisal process.

23
24
25 ² Mr. Austin dissected the appraisal process and report and catalogued
26 the various flaws and errors in two written submissions to the Examiner
27 including Exhibit #29 submitted in December 2014 and Exhibit 31 (pgs. 2-9) on
28 February 10, 2015. This analysis will not be repeated here but is
"incorporated by reference."

1 For example, when presenting his “paired sales analysis,” the appraiser classified certain
2 properties as “inferior” or “superior” based on designated criteria. The appraiser classified one
3 property as superior to another due to alleged access to a “wider” and better road. A check of the
4 actual property records revealed, however, that the appraiser was flat wrong. In reality, the
5 “superior road” was narrower than the “inferior road” and both roads were paved at a similar
6 time!³

8 As Mr. Austin described in his written submissions, these errors are just the tip of the
9 iceberg. The City’s appraiser did not follow published professional standards and showed
10 personal bias.

12 **IV. Requiring Mr. Austin to pay \$37,000.00 with no credible proof of enhanced value is**
13 **an unconstitutional taking of property without due process.**

14 An LID assessment cannot exceed the benefit that is conferred by the improvement.
15 *Bellevue Assocs. v. City of Bellevue*, 108. Wn. 2d 671, 678 (1987). In this case, there is no
16 credible evidence justifying the assessment.

18 **V. CONCLUSION**

19 The process of creating and enforcing LID assessments is a critical function of local
20 government. The Constitution and common sense requires the City to ensure that real estate
21 appraisals used in the assessment process meet the highest standards of fairness, accuracy and
22 credibility. The Petitioner submits these standards were not met and the recommendation of the
23 Examiner should be reversed.

26 ³ The reader is again directed to Exhibits 29 and 31 which contain Mr.
27 Austin’s exhaustive analysis of flaws and errors in the city’s appraisal
28 analysis.

DATED: This 9 day of June, 2015.



NIGEL S. MALDEN, WSBA #15643
Attorney for Petitioner, Matthew Austin

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