



**TO:** Elizabeth Pauli, City Manager  
**FROM:** Jeff Capell, Hearing Examiner  
Ralph Rodriguez, Management Analyst III, Department of Public Works  
**COPY:** City Council and City Clerk  
**SUBJECT:** Ordinance Request No. 19-0772 – LID No. 8645 Final Assessment Roll –  
September 17, 2019  
**DATE:** July 22, 2019

**SUMMARY:**

A request for an ordinance approving and confirming a revised Final Assessment Roll for Local Improvement District (“LID”) No. 8645, the “Broadway LID,” which called for the construction of permanent pavement, reconstruction, repair, and renewal of sidewalks, installation of ornamental street lighting and landscaping, including but not limited to, the renewing of shade and ornamental trees and shrubbery thereon, and the construction of surface water, wastewater, and water main utility replacement, together with limited maintenance of the landscaping in the following locations:

- 1) Broadway from South 2<sup>nd</sup> Street to South 9<sup>th</sup> Street;
- 2) St. Helens Avenue from South 7<sup>th</sup> Street to South 9<sup>th</sup> Street;
- 3) Market Street from St. Helens Avenue to South 9<sup>th</sup> Street;
- 4) South 4<sup>th</sup> Street from Stadium Way to Broadway; and
- 5) South 7<sup>th</sup> Street from Broadway to St. Helens Avenue.

The construction was done together with all other work necessary to complete the project in accordance with maps, plans, and specifications prepared, and on file in, the Office of the Director of Public Works.

**COUNCIL SPONSORS:**

N/A

**STRATEGIC POLICY PRIORITY:**

- Strengthen and support a safe city with healthy residents.
- Ensure all Tacoma residents are valued and have access to resources to meet their needs.
- Foster a vibrant and diverse economy with good jobs for all Tacoma residents.
- Assure outstanding stewardship of the natural and built environment.

**BACKGROUND:**

The Broadway LID was a major streetscape and utility improvement project designed to enhance the neighborhood and stimulate economic vitality. The project was controversial from the outset, with property owners nearly evenly divided between those supporting the effort and those opposing it. At the time, the Council chose to move forward with the improvements and formed the LID in Ordinance No. 27475 dated April 18, 2006. The Broadway LID involved participation by City utilities and departments in providing utility improvements. The utility work was funded by the City entities and not charged to individual property owners unless the work expressly was undertaken to benefit a specific property. When the first bids for the project were opened it became apparent that the costs would exceed the estimated assessments by 50%. The City went back to the owners to poll them as to whether they still supported moving forward. Approximately 50% of the responding owners still supported the project. The City moved forward with seeking contractors and ultimately entered into contracts with three firms to perform the required construction. The Wm. Dickson Co. was the main contractor for the LID work. R.L. Alia Company performed work on structural walk issues and Anthony Construction completed an abatement of one





property that chose not to participate in the structural walk repair contract. The construction was fully completed in or around August 2011. Before final assessments could be made the contracts had to be closed out and costs allocated. In this instance the contract closeout was finalized in 2013 and the allocation occurred during the ensuing years. The initial, proposed final assessments were not issued until early 2017. The final project cost was \$21,345,815.53 compared to the estimated project cost of \$12,005,250.00. The final total proposed for assessment to the property owners was \$7,644,443.17 compared to the originally estimated assessments to property owners of \$3,915,000.00. Many of the property owners received assessments that were double the original estimated assessment.

Hearing Examiner Phyllis K. Macleod conducted a hearing on the Final Assessment Roll on March 29 and 30, 2017. A number of property owners appeared to protest their assessments and an additional group filed written protests. At the request of the property owners, the record was held open to allow the addition of supplemental valuation information. The challenges raised by the property owners included some concerns specific to the type of ownership and others related to broad issues affecting the entire LID, such as interest, administrative costs, and objections to the overall increases in the estimated assessments.

The initial, proposed Final Assessment Roll was based on a special benefit study prepared by Valbridge Property Advisors, an appraisal firm. The Valbridge Study utilized different valuation approaches for different types of property. The Valbridge Study examined the value of real property in the District in August 2011, before the project improvements, and compared them with the value after the project improvements. Many of the witnesses at the hearing raised questions about the Valbridge Study, and at least some appraisal information was submitted from other appraisers. The Hearing Examiner found that the Valbridge Study used recognized appraisal techniques in valuing the residential condominiums and unimproved property within the LID. The Hearing Examiner, therefore, recommended approval of those assessments, subject to any general adjustments that might be made to the entire project for interest and/or administrative costs.

The office/retail/commercial property benefit analysis in the Valbridge Study used an income approach analysis, including a comparison of vacancy rates inside and outside the area, walkability scores, and a published study of streetscape impacts from New York to establish a proposed benefit of 4% to the office/retail/commercial properties (the "ORC Properties"). Evidence was presented from at least one expert witness claiming that the analysis was insufficient to support a 4% upward adjustment in value for the ORC Properties. The Hearing Examiner's recommendation found the Valbridge Study on the ORC Properties not entirely persuasive and suggested that the City Council seek further information and analysis using recognized appraisal techniques to establish a more supportable benefit figure. Accordingly, the Hearing Examiner did not unreservedly recommend confirmation of the final assessments proposed for the ORC Properties.

All property owner groups strongly opposed the interest charges that accrued during the extended period from the end of construction in 2011 to the initial, proposed final assessment in 2017. Over 1.3 million dollars in interest for short-term financing accumulated prior to the final assessment. Some interest is a necessary component of an LID, but the long delay in this case added unusually large charges to the owners' responsibility. The Hearing Examiner's Original Recommendation suggested an adjustment of \$331,500 designed to bring the interest charges more in line with typical projects.

The owners also challenged the amount of administrative fees and charges for City employee time that were included as part of the project costs. Substantial amounts were expended for staff time; however, the Hearing Examiner found that the evidence failed to establish a reasoned approach for making a downward adjustment of the charges in a specific amount. As a result, the Hearing Examiner did not recommend an



adjustment of administrative fees and costs in the Original Recommendation (nor is one recommended presently).

The Hearing Examiner's Original Recommendation also addressed some individual challenges and recommended adjustments or confirmation based on the specific circumstances of those property owners.

Prior to the initial, proposed Final Assessment Roll and the Hearing Examiner's Original Recommendation going to the City Council for action, requests for reconsideration under Tacoma Municipal Code ("TMC") 1.23.140 were filed by the City, through its LID Section in the Department of Public Works, and one property owner. These requests were denied for not meeting the applicable criteria for granting reconsideration.

Again, prior to Council consideration, appeals of the (proposed) Final Assessment Roll, pursuant to TMC 1.70, were filed with the City Clerk by the YWCA of Pierce County (the "YWCA") and Ann and William Riley (the "Rileys").

**APPEAL AND REMAND**

The City Council heard the YWCA and the Rileys' TMC 1.70 appeals on August 22, 2017, and then issued its ruling thereon on August 29, 2017. The City Council adopted the Hearing Examiner's recommendations for all properties within the District except for the ORC Properties. The City Council also adopted the Hearing Examiner's recommendation regarding capping interest. As regards the ORC Properties, the City Council "reject[ed] the use of a four percent (4%) benefit," and remanded consideration of the ORC Properties to the Hearing Examiner with the direction to "review the record or allow the record be supplemented to determine support for the use of a one percent (1%) benefit to be used for all Office/Retail/Commercial properties..." (the "Remand Order")

In the intervening time, (a) the City has reached settlements with the YWCA and the Rileys, (b) the City has submitted additional information in support of its proposed four percent (4%) benefit for the ORC Properties (without addressing a one percent [1%] benefit), and (c) the Hearing Examiner has reviewed the record extensively together with the City's newly submitted information. The Hearing Examiner has now issued a Supplemental Recommendation for the City Council's consideration expressly addressing the City Council's order on remand.

The amended, proposed Final Assessment Roll, submitted as part of the City Supplement (as referenced in the Supplemental Recommendation), takes into account reduced assessments for the YWCA and the Rileys, per the settlement agreements, but leaves its proposed assessment for all other ORC Properties at four percent (4%). If the City Council determines to "use [ ] a one percent (1%) benefit [ ] for all Office/Retail/Commercial properties..." as suggested in its Remand Order, the proposed Final Assessment Roll will need to be revised further.

**ISSUE:**

Whether the Council should adopt the Hearing Examiner's recommendation to confirm and approve the Final Assessment Roll after implementation of the amendments to the original proposed Final Assessment Roll outlined in the Supplemental Recommendation.





**ALTERNATIVES:**

- (1) The Council could adopt the Hearing Examiner's recommendation based on the express language of the Remand Order using a one percent (1%) benefit for all ORC Properties as suggested in the Remand Order.
- (2) The Council could choose to modify the Assessment Roll in some other manner.
- (3) The Council could confirm the originally proposed Assessment amount using a four percent (4%) special benefit/assessment for all ORC Properties except for the YWCA and Riley Properties as the City proposes.

**RECOMMENDATION:**

The Hearing Examiner's primary recommendation, based on the express language of the Remand Order is to confirm the Final Assessment Roll for LID No. 8645, as previously determined by the City Council on August 29, 2017, with the addition that "[t]he use of a one percent (1%) benefit to be used for all Office/Retail/Commercial properties..." is fully supported by the record.

In the event that City Council is reconsidering its prior rejection of a four percent (4%) special benefit/assessment for the ORC Properties, there is now better support for assessing a four percent (4%) special benefit/assessment for the ORC Properties and the Hearing Examiner can recommend such an assessment, even though not ordered to address such on remand, but with the qualifications referenced in the Supplemental Recommendation

**FISCAL IMPACT:**

In the City Supplement, staff indicated that City budgeting had accounted for the capping of interest and the discounts settled on with the YWCA and the Rileys, but is still counting on a four percent (4%) assessment to the rest of the ORC Properties. OMB has supplied the following additional information as well:

If the final assessment moves forward as proposed in Alternative 3, the total project assessments will be \$9,025,368. Of that total, the total assessment for the City-owned parcels is \$1,633,884 (budgeted). The City's responsibility for the reduced interest and YWCA and Rileys settlements will be \$1,366,925 (not budgeted). The total cost to the City is then \$3,000,809.

If the City Council chooses to move forward with Alternatives 1 or 2, there will be additional and significant unbudgeted fiscal impacts beyond the \$3,000,809 estimate for Alternative 3. The total for Alternative 1 or 2 would be determined upon updating the Assessment Roll.