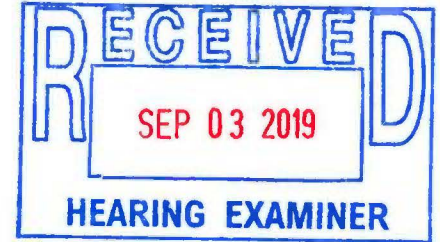


September 1, 2019

City of Tacoma
Office of the Hearing Examiner
Tacoma Municipal Building
747 Market St., Room 720
Tacoma, WA 98402-3768



Re: Request for Reconsideration of Hearing Examiner's Recommendation in the Matter
of: Formation of Proposed Local Improvement District No. 7731

Greg and Nadine Duras, residing at 4302 N. Waterview St., Tacoma, Washington, request reconsideration of the Findings of Fact, Conclusions of Law and Recommendation submitted by Hearing Examiner Jeff H. Capell, on August 20, 2019, regarding Local Improvement District No. 7731. We hope to avoid the time and expense for all concerned by obtaining reconsideration of this decision but we are prepared to appeal this to the City Council and Superior Court if necessary.

We are adversely affected by the LID Project because unlike other residents on N. Waterview Street who are subject to this LID, no power/communication lines will be taken down in front of our house. Consequently, we are being treated unequally in comparison to other members of this LID project. We will be required to pay about the same amount (\$19,249.20), as other property owners on our street with similar size lots, who will have lines in front of their houses buried. Therefore, benefits of the proposed improvements are not special to our property and we have been improperly included within the boundaries of proposed LID No. 7731, and the City's determination of the proper boundary for the LID does not comply with the terms of RCW, Chapter 35.43.

Our main concern is that the City does not intend to bury the lines next to our house that come down the hillside above us, cross over our lawn near to our house, then tie into a power pole directly in our view line and go across the railroad tracks and down to Ruston Way. Accordingly, when this LID is complete, we will be the only property on N. Waterview St that still has power/communication lines and poles in front of us, so this LID will probably devalue our home in comparison to others on our street. We did submit an appraisal showing some improvement value to our property associated with the proposed LID and we realize that the Hearing Examiner's recommendation at this time only addresses whether the City should create the district and whether the boundaries are proper, and that we should get an opportunity later to

challenge any final assessment. But in fairness to us, if we are to be included in this LID then we should receive a similar improvement of our view for our assessment, as do others in our neighborhood, or we should be left out of the project. The poles and lines that will remain include a variety of recently installed unsightly containers, PVC piping, and Frankenstein looking electrical devices. The main ugly pole that will still be in front of our house following this LID was moved 6 feet more in front of our house and our view line several years ago during a private burial of lines. We were told by the City engineer at the LID No. 7731 hearing and by others who do these types of utility line projects that these lines and poles could be buried. But the City LID Administrator indicated it is too difficult to coordinate such a project when dealing with the railroad. We are not requesting that the lines and poles that are on the steep hill behind our house be included, only the lines that run over our lawn and the poles and lines in front of us should be included in this LID. It is significant that these poles and lines are perhaps the most visible ones on N. Waterview St. for the thousands of people who regularly walk on Ruston Way. Therefore, we request that the City bury those poles and lines in the LID, and if so, this objection will be withdrawn.

We welcome the Hearing Examiner to visit the site as permitted by Hearing Examiner Rule of Procedure 1.15 and he has our permission to enter our property to observe the situation from our perspective.

If the relief requested above is not granted, then we also request reconsideration of the Hearing Examiner's recommendation that proposed Local Improvement District No. 7731 be approved for the reasons set forth below. We assign error to the following Findings of Fact and Conclusions of Law:

1. Findings of Fact 1: because the proposed boundaries of the LID are incorrect. There will be no "(c)onversion of existing overhead electrical primary, telephone and cable-TV lines to underground" in front of our house at 4302 N. Waterview St., which is included in the proposed boundaries. Diagonal stay lines on the pole to the left of our property facing Ruston Way will be removed, but not buried. The ground connector for those stays is located about 1/3 of the way of the 60 feet of our front property line and is obscured by a hillside.
2. Finding of Fact 2: states:

DPW staff conducted site visits to . . . 2) those properties located between 4208 and the center of the property located at 4302 Waterview Street North. DPW found that the utility lines abutting those properties were already underground and therefore, for remonstrance calculation purposes, would not be included within the proposed LID with the exception of one parcel, 4302 Waterview Street North.

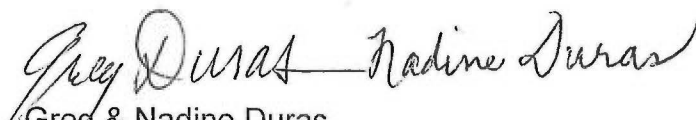
That is incorrect because there are no utility lines abutting our property, 4302 Waterview Street North, that will be included in this LID. They have all already been buried, and not merely to the center of the property as indicated, and therefore for remonstrance calculation purposes our property should be excluded.

3. Finding of Fact 3: the survey was not signed by the owners of 52.1% of property owners within the proposed LID. Waterview Point LLC has multiple undeveloped parcels that were included in the survey and some are still for sale and at least one of those parcels does not abut N. Waterview St. or Dale St., but it was included in the survey and assessments, while another was not. There are similarly situated parcels above N. Waterview St., that are adjacent to Waterview Point LLC that are for sale and that will benefit from the LID that were not included in the survey, including parcels behind the Ditcharo, Binham & Wiindfeldt, Horibe & West, and Klingenberg properties, and behind the Reed & Witty, Klingenberg, and Duras properties. Those survey irregularities and failure to include those affected properties constitute a violation of equal protection of the law and accordingly the survey must be invalidated.
4. Finding of Fact 7: is incorrect for the same reason as Finding of Fact 3, and because the formula involving the selection of the zones "thirty feet (30') in depth, with the square footages calculated per zone" and the "multiplier used in calculating the estimated special benefit" is clearly erroneous when taking into account the three improvement categories of "Neighborhood improvement, Neighborhood and View improvement, and View improvement to categorize the level of benefit and assist in calculating the estimated special benefit to the properties in the proposed LID." There is no rational basis for treating the properties and owners mentioned above regarding Finding of Fact 3 differently for purposes of calculating the estimated special benefit when taking into account the neighborhood improvement, and neighborhood and view improvement, and

that is particularly true in regards to our property at 4302 N. Waterview St., since no utility line in front of us will be buried as part of the LID.

5. Finding of Fact 8: as indicated above, the calculation of the survey and thus the protest rate is incorrect, and removal of the City owned parcels is also incorrect.
6. Conclusions of Law 8: is incorrect because the survey of property owners for proposed LID No. 7731 has been incorrectly calculated by the City and therefore it cannot be stated that "the rate of protest against formation of the proposed LID No. 7731 does not rise above 50 percent" so that the City policies and State statutes regarding undergrounding do not support formation of the proposed LID.
7. Conclusion of Law 9: is incorrect because the benefits of the proposed improvements are not special to those properties proposed for inclusion, particularly 4302 N. Waterview Street which has been improperly included within the boundaries of proposed LID No. 7731 in accordance with City ordinances and policies and State statutes.
8. Conclusion of Law 10: is incorrect because proposed LID No. 7731 does not meet the requirements of State law and the City's ordinances and policies governing improvement district formation. Additionally, the proposed LID occurs in a Critical Area where there have been numerous recent slides including directly on N. Waterview Street. That raises the specter of possible disaster in the face of such a large excavation project where there are numerous oil trains, a popular recreational area and street, and the waterfront directly below. Accordingly, an Environmental Impact Statement and other studies should be addressed prior to City approval of this project.

Very truly yours,


Greg & Nadine Duras
253-370-9981

Copy to: City Manager, City Attorney, LID Administra

Received by

SEP 03 2019

Customer Support Center