

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In re.

**SEATTLE WATERFRONT LID
ASSESSMENT HEARING**

Hearing Examiner File:
CWF-0001 - CWF-0441

**ORDER ON HEARING
SCHEDULE**

On March 4, 2020, the Hearing Examiner issued an order regarding the hearing schedule for these consolidated matters. That order included the following directive:

Objectors who have presented expert witness testimony and/or substantive lay testimony, concerning their special assessment, may cross-examine City witnesses including Robert McCauley. The time set aside for this opportunity is April 29 & 30. No additional time will be afforded. Objectors who plan to participate in cross-examination should coordinate with each other to ensure that questioning is not redundant, and make additional efforts to determine how the objectors will organize the cross-examination time they have.

No objection was submitted by any objector in response to this order.

On Monday April 6, 2020 the Office of Hearing Examiner (“OHE”) emailed objectors the following:

You are receiving this email because you have filed an objection to the City of Seattle Waterfront Local Improvement District assessment concerning your property. Your objection is currently being considered, along with all other objections submitted, by the Hearing Examiner as part of the Waterfront LID Assessment Hearing. The portion of the hearing dedicated to scheduled oral presentations of objections is nearing an end. The City is currently scheduled to present its argument on April 27th and 28th, and April 29th and 30th have been set aside for cross-examination of the City’s appraiser by objectors. You are being contacted to determine if you plan to participate by cross-examining the City appraiser. Please note, the opportunity to cross-examine in this matter is not considered by the Hearing Examiner to be an absolute right, and is not required for your objection to be considered by the Hearing Examiner. In order to participate in cross-examination you must 1) have presented expert witness testimony and/or substantive lay testimony as part of your objection concerning your special assessment, and 2) be prepared to coordinate with other cross-examining objectors to ensure that questioning is not redundant, and make additional efforts to determine how the objectors will organize the cross-examination time they have – no additional time will be provided beyond the two days, and objectors are expected coordinate their time together accordingly. Note further, that while it is not required that you be an attorney to participate in cross-examination, no special accommodation will be made for non-attorneys - if you are a non-attorney

participating in cross-examination, you will still be required to follow the same procedural requirements and processes as attorneys. If you wish to seek the opportunity to participate in cross-examination, please respond to this email by 5 pm Wednesday April 8th. You will be contacted at a later date concerning preparations for the hearing. Thank you.

Many objectors provided timely responses to this email request, and these responses varied:

1. Some objectors simply responded appropriately to the request indicating whether they intended to participate in cross-examination or not. The number of objectors seeking to cross-examine the city witnesses is high (over 50 responded affirmatively), and this will be discussed further below.
2. Some objectors complained that they would not have time to prepare for cross-examination by the indicated dates. Arguably objectors were required to be prepared for cross-examination on the date set for hearing by notice, February 4, 2020. In any event, objectors should have been fully alerted to the need to prepare for their intended participation in cross-examination by the Hearing Examiner's order issued on March 4, 2020. All materials that have been submitted for the hearing are posted to the OHE website main page, especially for ease of access for objectors. All documents concerning the efforts have been publicly available for months. This is a quasi-judicial hearing and all participants, whether attorneys or not, need to be prepared to pursue their case according to the schedules set. Any party that fails to do so is simply sitting on their rights and should not be accommodated.
3. A group of objectors complained that proceeding with the hearing at this time is a violation of the governor's stay at home order regarding COVID-19. These objectors have misunderstood the governor's order and/or current hearing procedures. The governor's order requires that in-person meetings and events be cancelled. It does not require that all business and government operations be ceased. In accordance with the governor's order, the Examiner issued an Emergency Rule on March 16, 2020, which moved all hearings to remote hearing processes only. There was never any intent that the City presentation of its case, and/or cross-examination would take place in person. Various objectors have been presenting their cases by Skype and Zoom over the past two weeks with success, and this will continue for the remaining scheduled objector presentations so long as the governor's order remains in place.
4. Lastly, some objectors responded by identifying some of the real complications and challenges they face in participating in a hearing (even when the hearing is held remotely and assuming they are properly prepared for cross-examination). These include the challenges faced under the circumstances by some that include but are not limited to: attempting to maintain small businesses amidst an economic crisis, lack of childcare, at least one health care worker "on the front-lines," and lack of technical capacity to participate in a remote hearing. These concerns warrant a continuance of a portion of the hearing, as will be discussed below.

Due to the complications faced by certain objectors identified in item 4 above, and because the number of objectors seeking to participate in cross-examination will likely make a remote hearing unfeasible under the circumstances, the portion of the hearing dedicated to City presentation of its case, and the opportunity for cross-examination should be continued to a date after the governor's stay at home order has been lifted.

The governor's stay at home order is currently set to expire on May 4, 2020. Therefore, the portion of the hearing dedicated to City presentation of its case, and the opportunity for cross examination is

hereby **CONTINUED** to May 18 and 19 for City case presentation, and May 20 and 21 for cross-examination of the City appraiser. The Examiner reserves the right to identify more time if necessary, but has no plans to do so currently.

In the event the governor's stay at home order is extended to a later date, this portion of the hearing will be extended accordingly.

The Hearing Examiner may make efforts, such as holding a prehearing conference, in the period between now and these continued hearing dates to assist objectors seeking to cross-examine to coordinate their cross examination schedule. In addition, the Hearing Examiner will be reviewing the requests for cross examination, and will make a determination as to which parties who have requested cross examination may do so.

Entered this 10th day of April, 2020.

s/Ryan Vancil
Ryan Vancil, Hearing Examiner