

# **Bond Case Briefs**

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## **SPECIAL ASSESSMENTS - WASHINGTON**

### **SHG Garage SPE v. City of Seattle**

**Court of Appeals of Washington, Division 1 - August 5, 2024 - P.3d - 2024 WL 3647666**

Property owners sought review of local improvement district (LID) special assessments levied against them for improvements to waterfront area.

The Superior Court nullified assessments. City appealed.

The Court of Appeals held that:

- Expert appraiser's testimony was insufficient to overcome presumption that assessment was valid;
- City's method of assessment was not founded on fundamentally wrong basis;
- City's special benefit study complied with applicable professional appraisal standards governing mass appraisals;
- City did not act arbitrarily and capriciously by treating improvements as one continuous improvement;
- Hearing examiner did not misapply presumption of correctness by disregarding testimony from owners' expert witness; and
- City was not arbitrary and capricious for failing to independently review owners' appeal.

Testimony from expert appraiser did not demonstrate that properties in local improvement district (LID) did not benefit from improvements and was thus insufficient to overcome presumption that city's special assessment levied against property owners was valid; owners alleged that expert's testimony provided sufficient information to calculate an alternative special benefit amount and at same time, they contended that LID study and potential benefit estimates were too speculative to allow for a reliable counter-appraisal.

City's method of special assessment for local improvements to waterfront was not founded on a fundamentally wrong basis, as would provide grounds to correct or annul assessment, due to failure by its special benefit study to analyze how viaduct removal impacted property values by the waterfront; while study valued the before improvement scenario by assuming a viaduct had been removed, it provided enough information for owners to evaluate how properties were valued in before improvement scenario, such as relevant market information on rents and vacancy and market conditions, as well as how properties were valued in the after improvement scenario.

City's special benefit study's failure to account for property value changes due to COVID-19 pandemic was not basis on which to conclude special assessments for local improvements to waterfront area were founded on a fundamentally wrong basis, as required for court to correct or annul special assessments, where property appraisals were done before the onset of the pandemic.

Special assessment for local improvements to waterfront was not founded on a fundamentally wrong basis, as would provide grounds to correct or annul assessment, due to failure to comply with professional appraisal standards governing direct property appraisals, because property appraisal at issue was a mass appraisal, which was governed by separate standards.

City's special benefit study complied with applicable professional appraisal standards governing mass appraisals for determining special benefits and thus, valuations did not provide grounds to conclude special assessments for local improvements to waterfront area were founded on a fundamentally wrong basis, as required for court to correct or annul special assessments, absent evidence showing that the valuations were inaccurate; study considered recent sales of comparable commercial and residential properties, explained how it calculated cost/benefit ratio by dividing total assessment cap by total estimated special benefit assessable to the properties, and detailed how special benefits were calculated, with spreadsheets for each owners' properties that showed detailed before and after valuations.

Property owners who challenged city's special assessments for local improvements to waterfront area failed to show assessments were grounded on fundamentally wrong basis due to city benefit study's lack of property-specific analysis, as required for court to correct or annul assessments, absent evidence showing that percentage increases were inaccurate; study adequately documented and explained its before and after-improvement property valuations, and since a mass appraisal rather than direct appraisal was conducted, city was not required to produce property-specific analysis sought by owners.

Property owners who challenged city's special assessments for local improvements to waterfront area failed to show assessments were arbitrary and capricious based on timing of property appraisal, as required for court to correct or annul assessments; owners contended that appraisal was completed too far in advance of improvements, but they provided no authority requiring that valuations be made immediately before special benefits attach, and they did not offer any evidence or argument suggesting that time between the appraisal and completion of improvements rendered valuations inaccurate.

City did not act arbitrarily and capriciously by instructing that its special benefit study treat separate local improvement district (LID) improvements as one continuous improvement when they were not, as required for court to correct or annul special assessments that were levied upon owners for improvements to waterfront area, where city complied with applicable statutes governing continuous and contiguous improvements.

Property owners who challenged city's special assessments for local improvements to waterfront area failed to show that city hearing examiner to whom owners presented their case misapplied presumption of correctness when examiner disregarded testimony from owners' expert witnesses, as required for court to correct or annul assessments, where record reflected that the examiner considered all the evidence and determined that city's evidence was more persuasive than owners' evidence.

City's process for special assessments in local improvement district (LID) was not arbitrary and capricious, as required for court to correct or annul special assessments, due to city's failure to independently review property owners' appeal of special assessment levied against them for improvements to waterfront area, where city appropriately chose to delegate review of appeal to a committee, as authorized by law.