

PBOT

PORTLAND BUREAU OF TRANSPORTATION

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Jo Ann Hardesty Commissioner **Chris Warner** Director

February 24, 2022

SUMMARY OF OBJECTIONS AND FINDINGS TO COUNCIL

Assess benefited properties for street, sidewalk, stormwater, sanitary sewer and water main improvements in the NE 47th Ave Phase I Local Improvement District (Hearing; Ordinance; C-10052)

I. SUMMARY

A written objection representing one (1) of the owners of the 29 nonexempt properties in the NE 47th Avenue Phase II Local Improvement District (LID) was received by the filing deadline registering objections to final assessment of the local improvement district.

II. SPECIFIC RESPONSES TO THE OBJECTION FILED BY PROPERTY OWNER BERTILDA MARTIN-MENDOZA.

An objection was submitted by Bertilda Martin-Mendoza, owner of the property at 7156 NE 47TH AVE; State ID #1N2E18BA 3000; tax account #R942181510; property ID #R317491; legal description SECTION 18 1N 2E, TL 3000 0.27 ACRES; pending lien record #158537; see Attachment 1.

ISSUES RAISED BY THE OBJECTION

Issue No. 1: I was never told the tremendous amount that needed to be paid.

Findings:

- a. Ms. Martin-Mendoza, like all other property owners in this LID, received an invitation mailed on February 10, 2016, providing notice of the March 2, 2016, City Council hearing to initiate local improvement formation proceedings. The record of Resolution No. 37194 adopted by Council does not include any testimony from Ms. Martin-Mendoza. This notice included disclosure that all privately-owned properties would have a future LID assessment of not more than \$18,495.39. Ms. Martin-Mendoza's property is significantly less than this maximum at \$7,990.01. Financed over 20 years, her estimated monthly payment would be \$57 assuming an interim interest rate of 5.20%.
- b. Notice of the LID Formation Hearing held on March 30, 2016, was mailed to Ms. Martin-Mendoza on March 9, 2016. This notice mailed by the City Auditor noted the proposed future assessment to this property in the amount of \$7,990.01, which is not proposed to increase per the assessment proposed by this Ordinance. The record of Ordinance No. 187665 adopted by Council does not include an objection to formation of this LID from Ms. Martin-Mendoza.
- c. This property's assessment is approximately 0.5% of the total amount of the proposed LID assessment. Each \$1.00 of property owner funding through the LID leveraged \$4.72 in non-LID funding. Without this funding, Ms. Martin-Mendoza's assessment would have been \$37,732.87 instead of \$7,990.01.
- d. There were a significant number of nonpermitted encroachments into the public right-of-way by this property. The project bore the cost of adapting to these encroachments, including but not limited to Ms. Martin-Mendoza's stairs and retaining wall being in the public right-of-way instead of on private property.

- e. Examples of construction costs incurred by the project include but are not limited to the following costs of \$71,277 identified in Exhibit C of this Ordinance to build the multiuse path around nonpermitted encroachments:
 - 1. Approximately one-third of the \$134,112 cost of bid item #70 for a prefabricated modular retaining wall for \$44,704; and
 - 2. Bid item #92 for concrete stairs in the amount of \$20,250; and
 - 3. Bid item #93 for a metal handrail in the amount of \$1,740; and
 - 4. Bid item #133 to remove and reconstruct fence in the amount of \$1,820; and
 - 5. Change Order #2.09 in the amount of \$800 to plant shrubs on this property; and
 - 6. Change Order #27 in the amount of \$1,963 to reroute a nonpermitted rain drain encroaching in the public right-of-way.
- f. The encroachment improvements identified in Finding 1e above are 8.9 times the amount of the proposed assessment for this property and excludes the cost of 99.7 centerline feet of frontage improvements.
- g. Alternatively the project could have utilized the approach of holding a hearing before the Code Hearings Officer to compel that these encroachments be removed in advance of LID construction at property owner expense.
- h. This property received significant special benefit from the 99.7 centerline feet of street improvements with new curb, stormwater management, and pedestrian facilities that otherwise would have been required as a condition of development.

Issue No. 2: My family is still dealing with the consequences of this project that deconstructed my property.

Findings:

- a. The work discussed in Finding No. 1 above was work in the public right-of-way, not on private property.
- b. This property has received significant special benefit right-of-way improvements as shown below in Google Street view from June 2019 and October 2021:



c. Benefit to property includes but is not limited to:

1. Elimination of dust from eliminating 99.7 centerline feet of the gravel shoulder along NE 47th Avenue, eliminating property owner responsibility for maintenance thereof; and
2. Transition pavement on NE Buffalo Street east of NE 47th Avenue; and
3. Removal of a dead and dangerous tree to the north of the staircase to the house, and:
4. Replacement of an unstable rock retaining wall with a modular block retaining wall; and
5. Replacement of a cracked and deteriorated staircase encroaching into the public right-of-way.

Issue No. 3: My house constantly trembles when semitrucks drive past my property.

Findings:

- a. Any vibration that occurs is mostly occurring on bridge joints, which may be a perceived issue by the owner of this property but is not an indication of an actual structural problem or failure. The southeast corner of the building structure on this property is approximately 55 feet from the northwest corner of the bridge structure (not the closest bridge joint). The building structure is not likely to be impacted by vibration from traffic, but the noise may be a perceived issue by the residents.
- b. The project specified UltraBlock walls at a higher expense to the project to minimize construction vibration because of the proximity of the wall to the building structure. The contractor did not use any shoring methods that were reliant on vibration.
- c. People can feel vibrations as measured by peak particle velocity (PPV) of greater than 0.02 inches per second (ips). At PPV = 0.2 ips, the vibration is “distinctly perceptible” and intermittent vibrations are more distinctly noticeable and amplified than continuous vibration. These PPVs are significantly less than the thresholds for even cosmetic cracking.

Issue No. 4: I am sharing a mailbox with multiple other people.

Findings:

- a. Mailboxes are relocated and consolidated at the direction of the U.S. Postal Service.
- b. Mailboxes on this project were replaced with locking mailboxes to address mailbox theft issues that predated construction of the LID.

Issue No. 5: Cars have to constantly hit the curb to get into my property.

Findings:

- a. The driveway serving this property was constructed to a 12' width to accommodate a normal passenger vehicle.
- b. Turning movements for a WB-17 design vehicle was used for this driveway. A passenger vehicle hitting the curb while turning into the driveway would likely be the result of driver error.

III. RECOMMENDATION

It is the recommendation of the Local Improvement District Administrator that the City Council overrule any and all objections and approve the Final Assessment Ordinance for the NE 47th Avenue Phase II Local Improvement District.

Respectfully submitted,



Andrew H. Aebi
Local Improvement District Administrator

Rev'd 2/22/22

To whom it may concern,

I, the property owner of residence 7156 NE 47th Ave Portland, OR 97218, am objecting to the cost of \$7,990.01 for NE 47th Ave Phase 1 Local Improvement District (LID). Before the project started, I was never told the tremendous amount that needed to be paid by myself. Not only was I never told about the amount I'd be charged, but these "improvements" cost my property caused more damage than actual improvements.

My family is still suffering the consequences of this project that destructed my property. The stairs that were reconstructed was beyond poorly made, the stairs are noticeably crooked when they were professionally built and straightened prior to this project. The retaining wall this team built was constantly being removed and rebuilt due to their unprofessional and constant errors which led to them using a harsh machine that caused constant trembling of the land on my property. My house constantly trembles when semi-trucks drive past my property, also after I asked that the speed could be reduced. This trembling has caused cracks in my house wall structure, and that is only what I can physically see, I can't imagine the damage that was caused that I cannot physically see such as the foundation that keeps my house stable. Since this project started, there have been cracks on the land of my property, literally the ground itself is cracking open which I've never seen prior to this project. On top of that, the gate I put surrounding my house has been spreading apart because of this project. The twelve American Arborvitae trees that I personally planted and have grown for over a decade, were pulled out, as well as the dirt that kept them alive for that amount of time, was also removed. I was promised a replacement of those exact trees. To my disbelief, I was given shrubs and the dirt was replaced with gravel that can't even support, let alone keep any plants alive, which disgusts me. I had to personally add fresh dirt to keep those shrubs I was given, alive. Also the fact that now I do not get my mail in front of my house like it traditionally is supposed to be when you're a home owner with a mailbox, is unacceptable. As a property owner, I am sharing a big mailbox with multiple other people that is stationed at a public park, is unsafe and insecure. I feel that my rights have been violated, my voice was not being heard by the project team and the project manager, this is not acceptable.

I was promised improvements, not damages. This project left my property with unfulfilled improvements such as the handrail that I was promised would be replaced because the project team unprofessionally placed a handrail that was too long that goes past my stairs and also a small driveway that my cars have to constantly hit the curb in order to get into my property. Not receiving my mail and packages on time as a home owner is unbelievable. My house constantly shaking with simple semi-trucks passing by. My land cracking and spreading apart. My trees and dirt not being replaced as told. I have emails and picture evidence that I've sent to the project team manager, Andrew Aebi, about these damages. This project was beyond unprofessional, unfulfilling and I object to paying the costs for these damages to my property. I want the city to consider my objection, I am the one asking for the damages to be paid for, not me being charged for this unprofessional project that left my property damaged and my own family living with the consequences of this unprofessional work.

Sincerely,



Bertilda Martin, Property Owner of 7156 NE 47th Ave Portland, OR 97218

Bertilda Martin Mendoza
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Portland, OR 97218

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