

**INTERIM REPORT OF CONSULTANT TO
THE CITY OF BELLEVUE CONCERNING
ALLEGED CONFLICTS OF INTEREST**



**DLA Piper LLP (US)
Jeffrey B. Coopersmith
701 Fifth Avenue, Suite 7000
Seattle, WA 98103
(206) 839-4800**

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I. Scope Of Interim Report

On April 18, 2011, the Bellevue City Council (the “Council”) approved a professional services contract with DLA Piper LLP (US) (“DLA Piper”), under which the City of Bellevue (the “City”) retained DLA Piper as a consultant to investigate allegations that certain members of the Council might have conflicts of interest affecting the Council’s consideration of issues relating to Sound Transit’s East Link light rail project.

The scope of work contained in the contract directed DLA Piper to submit an “interim report to [the] Council outlining the conflicts alleged and indicating [DLA Piper’s] decision as to which allegations will be included in the final scope of work.” To prepare this interim report, we conducted a preliminary review consisting primarily of (1) interviewing the members of the Council regarding their views on the various conflict allegations that have been made and giving them the opportunity to raise any additional allegations; (2) reviewing documents provided by the Councilmembers during those interviews; and (3) determining whether each of the allegations raised warrants investigation or review under applicable law. Under the procedure approved by the Council on April 18, 2011, DLA Piper has “sole responsibility for determining which allegations shall be included in the scope of [the] review and analysis for conflicts under the applicable state and local law.”

In addition, the City Attorney and City Manager have also requested that DLA Piper include in its interim report an analysis of whether, and if so, under what circumstances, Councilmember Claudia Balducci, who is a member of the Sound Transit Board of Directors, can participate in future Council discussions (including executive sessions) and decision-making relating to any potential litigation with Sound Transit. We have been asked to undertake that analysis and include it in this interim report, rather than in a final report, because of the possibility that the Council may discuss potential litigation with Sound Transit during an executive session, the timing of which is uncertain, because it is uncertain when Sound Transit will release the final environmental impact statement (the “FEIS”) for the East Link project.

Pursuant to the contract’s scope of work, DLA Piper conducted in-person interviews with six of the seven members of the Council. We interviewed Councilmember Jennifer Robertson on April 22, 2011; Councilmember Grant Degginger on April 22, 2011; Councilmember Claudia Balducci on April 25, 2011; Mayor Don Davidson on April 26, 2011; Councilmember John Chelminiak on April 27, 2011; and Councilmember Kevin Wallace on April 28, 2011. Some of the Councilmembers also provided us with limited documentation relating to conflicts allegations that have been raised. Deputy Mayor Conrad Lee declined to be interviewed for the interim report, but did provide us with several documents that had been sent to him by constituents bearing on conflicts allegations against Councilmember Degginger.

In addition, we have reviewed ethics opinions prepared by the City Attorney concerning certain of the conflict of interest allegations that have been raised, as well as

other publicly available documents and information. We have also conducted preliminary research and analysis of the applicable state and local law.

II. Summary Of Conflict Of Interest Allegations Raised

Based on our interviews with members of the Council, our review of documents provided to us by them, and our review of other publicly available information, including media reports and records of Council meetings, we have identified conflict of interest allegations that have been made concerning three of the current members of the Council — Claudia Balducci, Grant Degginger, and Kevin Wallace. The allegations relating to each are summarized below. We have not been made aware of any alleged conflicts of interest relating to Mayor Davidson, Deputy Mayor Lee, Councilmember Chelminiak, or Councilmember Robertson.

A. Allegations Against Councilmember Balducci

The conflict of interest allegations concerning Councilmember Balducci relate to the fact that she is both a member of the Council and a member of Sound Transit's Board of Directors. We were informed that certain members of the public have alleged that Councilmember Balducci's simultaneous service on the Council and the Sound Transit Board (1) violates the common law doctrine of incompatible offices, and (2) creates a conflict of interest with respect to her consideration of issues concerning Sound Transit and the East Link light rail project. At Councilmember Balducci's request, on January 20, 2010, the City Attorney prepared an ethics opinion analyzing the second of these issues. The City Attorney opined that Councilmember Balducci was not required to recuse herself from the Council's policy discussions and decisions concerning the East Link light rail project. The City Attorney also prepared a draft memorandum dated March 3, 2011 concerning the common law doctrine of incompatible offices. In her March 3 draft memorandum, which was not distributed, the City Attorney wrote that the positions of Sound Transit Board member and Bellevue City Councilmember are not incompatible under the common law doctrine. No member of the Council stated during our interviews that they believed Councilmember Balducci had labored under a conflict of interest during past votes or discussions of the Council.

However, as noted above, questions have been raised about whether, in the event the Council engages in consideration of potential litigation between Sound Transit and the City, Councilmember Balducci could participate in Council discussions and decisions concerning any such potential litigation, including executive sessions held by the Council. Councilmember Balducci has informed us that in the event of potential litigation between Sound Transit and the City, she would hope to participate on the Bellevue side but recuse herself from all Sound Transit Board discussions and decisions concerning the potential litigation, including executive and public sessions of the Sound Transit Board. Councilmember Balducci has also informed us that she would formalize her recusal from the Sound Transit Board prior to participating in any Council discussions or decisions concerning potential litigation with Sound Transit.

B. Allegations Against Councilmember Degginger

Councilmember Degginger has been alleged to have a conflict of interest with respect to issues involving Sound Transit's East Link light rail project based on his status as a shareholder of the law firm Lane Powell, which represents Sound Transit in connection with a variety of legal matters unrelated to the East Link project, and based on the fact that Councilmember Degginger personally represented Sound Transit in a lawsuit in federal court against Qwest Corporation during the period from 2002-2003. Members of the Council have informed us that constituents have alleged that Councilmember Degginger's past representation of Sound Transit and Lane Powell's current representation of Sound Transit create a conflict of interest with respect to Councilmember Degginger's consideration of issues concerning the East Link light rail project. At Councilmember Degginger's request, on September 29, 2010, the City Attorney prepared an ethics opinion summarizing prior discussions between the City Attorney and Councilmember Degginger. The City Attorney opined that Councilmember Degginger was not required to recuse himself from Council discussions and decisions concerning the East Link project based on Lane Powell's representation of Sound Transit on unrelated matters.

Deputy Mayor Lee provided us with correspondence from members of the public who alleged that the amount of legal fees paid to Lane Powell by Sound Transit should lead to an inference that Lane Powell has been hired for additional legal work by Sound Transit as a result of positions taken by Councilmember Degginger on the Council on issues relating to Sound Transit. These allegations appear to be based entirely on data from Sound Transit concerning legal fees paid to Lane Powell during various years, and the correspondence provided to us by Deputy Mayor Lee did not include any specific allegations or facts showing that Sound Transit had in fact based any decisions to award legal work to Lane Powell on any actions or positions taken by Councilmember Degginger.

In addition, Mayor Davidson has suggested that Councilmember Degginger may have improperly participated in certain council discussions and votes relating to Sound Transit while he was personally representing Sound Transit about eight years ago. Mayor Davidson referred to the following discussions and votes: a May 27, 2003 discussion concerning the Eastside Transit Partnership's formation of a subcommittee to review and discuss unanticipated East Subarea Sound Transit revenues; an August 4, 2003 consent calendar item authorizing a four-party agreement among the City, the King County Department of Transportation, Washington State Department of Transportation, and Sound Transit; a September 15, 2003 discussion concerning the Access Downtown project; an October 6, 2003 discussion concerning a letter from the Seattle mayor about plans for the I-90 corridor; and a November 17, 2003 vote authorizing a lease with Sound Transit in the Bellevue Transit Center.

Finally, Councilmember Robertson informed us that a member of the public had filed a complaint against Councilmember Degginger with the Public Disclosure

Commission in the summer of 2010, alleging that Councilmember Degginger had not made certain required disclosures concerning Lane Powell.

C. Allegations Against Councilmember Wallace

Councilmember Wallace has been alleged to have conflicts of interest based on (1) his status as an officer of Wallace Properties, Inc., a commercial real estate company that manages several properties in downtown Bellevue that are beneficially owned by Councilmember Wallace's parents, and some of which might be affected by various proposed East Link light rail alignments and station locations; and (2) his involvement with GNP Rly. Inc. ("GNP"), a company that has expressed a desire to operate a freight and/or commuter rail service along the BNSF Eastside Rail Corridor, including eventually along a portion of the corridor running through Bellevue that would be utilized for light rail by the East Link project in the event that Sound Transit selects the revised B7 alignment that has been advocated by some Bellevue Councilmembers, including Councilmember Wallace. Councilmember Wallace's involvement with GNP included a December 2010 Memorandum of Understanding ("MOU") concerning a contemplated business relationship with GNP. It has been alleged that Councilmember Wallace's involvement with Wallace Properties and his business dealings with GNP created conflicts of interest relating to the Council's consideration of issues relating to the East Link project.

On January 5, 2010, at Councilmember Wallace's request, the City Attorney prepared an ethics opinion addressing Councilmember's association with Wallace Properties. The City Attorney opined that Councilmember Wallace's involvement with Wallace Properties did not create a conflict of interest that would require Councilmember Wallace to recuse himself from Council discussions or decisions concerning the East Link project. Councilmember Wallace did not request, and the City Attorney did not provide, an ethics opinion concerning the GNP matter, although the Memorandum of Understanding contained a provision stating that Councilmember Wallace's obligations under the MOU were subject to a legal review of potential conflicts to be obtained by Councilmember Wallace upon execution of the MOU.

III. Determinations Concerning Need For Further Analysis And Investigation And Inclusion In Final Report

Based on the allegations that have been raised relating to Councilmembers Balducci, Degginger, and Wallace, as well as our initial review of applicable state and local law, we have made determinations, set forth below, as to which of the conflict of interest allegations that have been raised warrant further factual investigation and/or legal analysis. Our determination that a particular allegation warrants further factual investigation or legal analysis does not represent any judgment or conclusion as to the merit of the allegation. Rather, it represents only our determination that additional factual investigation or legal analysis is necessary in order for us to fully evaluate the allegation under applicable law and make conclusions about the allegation in a final report.

A. Allegations Against Councilmember Balducci

With respect to the allegations against Councilmember Balducci, we have determined that the allegations raised do not require any further factual investigation, because they are based entirely on the publicly known facts that Councilmember Balducci serves as a member of both the Council and the Sound Transit Board. Accordingly, we will conduct a “peer review” of the City Attorney’s January 20, 2010 ethics opinion regarding Councilmember Balducci, and the City Attorney’s March 3, 2011 draft memorandum, and we will also provide a forward-looking analysis of the limited question of whether Councilmember Balducci can participate in Council discussions (including executive sessions) and decision-making relating to any potential litigation with Sound Transit regarding East Link if she recuses herself from all Sound Transit Board discussions and decisions concerning any such potential litigation. Because we have been informed that the Council may conduct executive sessions concerning potential litigation with Sound Transit, the timing of which is uncertain, we have included the legal analysis related to Councilmember Balducci in Section IV of this interim report.

B. Allegations Against Councilmember Degginger

With respect to the allegations against Councilmember Degginger, we will conduct a “peer review” of the City Attorney’s September 29, 2010 ethics opinion concerning Councilmember Degginger’s past representation of Sound Transit and Lane Powell’s ongoing representation of Sound Transit. As part of that review, we will obtain appropriate information as necessary about Lane Powell’s engagements for Sound Transit and Sound Transit’s process for selecting outside counsel.

We will also conduct a legal analysis of the allegations raised by Mayor Davidson concerning Councilmember Degginger’s past representation of Sound Transit and his participation in Council proceedings in 2003. We do not believe that further factual investigation will be necessary in order to complete the analysis concerning events in 2003, because the issues turn on publicly available information about the nature and time frame of the Sound Transit representation and the discussions and votes of the Council.

We will not conduct any investigation into the allegations relating to Councilmember Degginger’s public disclosures, which were brought to our attention by Councilmember Robertson. The Public Disclosure Commission issued a report on the citizen complaint in question in September 2010 recommending that the Attorney General take no action with respect to the citizen complaint. We are not aware of any fact or allegations that would contradict the Commission’s findings with respect to that citizen complaint.

C. Allegations Against Councilmember Wallace

With respect to the allegations against Councilmember Wallace, we will conduct a factual investigation in order to determine whether Councilmember Wallace's involvement with GNP could amount to an impermissible conflict of interest under state or local law. Councilmember Wallace has informed us that he will cooperate fully with our factual investigation regarding the GNP matter, including by providing us with all necessary documents and information. In addition, we will conduct a "peer review" of the City Attorney's January 5, 2010 ethics opinion concerning Councilmember Wallace's involvement with Wallace Properties. We do not currently anticipate that further factual investigation will be necessary in order to complete the "peer review" of the City Attorney's January 5, 2010 opinion.

IV. Conclusions Concerning Councilmember Balducci

A. The Offices Of Bellevue City Councilmember And Sound Transit Board Member Are Not Incompatible

In her March 3, 2011 draft memorandum, the City Attorney wrote that the common law doctrine of incompatible offices recognized in Washington does not prohibit Councilmember Balducci from serving simultaneously as a Bellevue City Councilmember and a Sound Transit Board member, because in Sound Transit's authorizing statute, the legislature expressly required that Sound Transit's Board include members of local legislative bodies. Based on our review of the doctrine of incompatible offices in Washington, we believe that the City Attorney's draft memorandum was correct that the doctrine of incompatible offices does not prevent councilmember Balducci from serving on both the Council and the Sound Transit Board.

In general terms, the doctrine of incompatible offices precludes public officials from simultaneously holding two public offices where the duties or functions of the offices are inconsistent or where "the nature and duties of the offices are such as to render it improper, from consideration of public policy, for one person to retain both." *Kennett v. Levine*, 50 Wn.2d 212, 216, 310 P.2d 244 (1957). Whether two public offices are incompatible is a fact-specific inquiry based on the circumstances of each case and on considerations of public policy. *See id.* at 216-17; AGO 65-66, No. 20, at 3.

Although a number of states have constitutional or statutory provisions that govern dual office holding, Washington's doctrine of incompatible offices is exclusively a common law doctrine. *See, e.g.*, AGO 1983 No. 17, at 4 (stating that doctrine of incompatible offices in Washington derives from common law, not statutory enactment). As such, the doctrine can be overridden by statute, and it cannot apply to prohibit dual office holding that has been expressly permitted by the legislature. *See id.* at 4 (doctrine of incompatible offices "may be overridden by specific legislation"); AGO 1973 No. 24, at 2, 9 (describing incompatible offices as common law doctrine that applies in Washington only in the absence of contrary statute); AGO 1978 No. 12, at 4 n.2 (noting legislature's authority to override application of incompatible offices doctrine).

Sound Transit’s authorizing statute contains a specific statutory provision, RCW 81.112.040, that addresses the composition and make-up of Sound Transit’s Board of Directors. As is relevant here, RCW 81.112.040 provides that the Board members to be appointed by each county shall be appointed by the county executive and confirmed by the county legislative body, and that each appointed board member (other than the Secretary of Transportation) shall be either (1) an elected city legislator or mayor from a city within Sound Transit’s boundaries; (2) a county legislator; or (3) a county executive of a member county. RCW 81.112.040(1).

Because RCW 81.112.040 expressly permits city legislators to be appointed to the Sound Transit board, that statutory authorization overrides and displaces the application of the common law doctrine of incompatible offices. Accordingly, the positions of Bellevue City Councilmember and Sound Transit board member are not incompatible under the common law doctrine.

B. No Provision Of Law Requires Councilmember Balducci To Recuse Herself From Policymaking Discussions Or Decisions Concerning East Link Based On Her Position As A Sound Transit Board Member

In her January 20, 2010 ethics opinion to Councilmember Balducci, the City Attorney opined that no provision of applicable state or local law required Councilmember Balducci to recuse herself from Council policymaking discussions or decisions relating to East Link based on Councilmember Balducci’s status as a Sound Transit board member. Based on our review of applicable state and local law, we believe that the City Attorney’s opinion was correct.

The City does not have a dedicated local ethics code that applies to the Councilmembers. Chapter 3.92 of the Bellevue City Code, adopted in 1989 and titled “Code of Ethics — City Council and City Boards, Commissions and Committees,” recites that the business of the Council should be conducted in accordance with “high ethical standards” and adopts by reference the provisions of RCW Chapters 42.22 and 42.23. RCW Chapter 42.22 was repealed in 1994. RCW Chapter 42.23 contains two primary provisions that govern the conduct of municipal officers — RCW 42.23.030 and RCW 42.23.070.

RCW 42.23.030 prohibits a municipal officer from being “beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office,” and from accepting “directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein.” Washington courts have interpreted the term “beneficial interest” in RCW 42.23.030 to be limited to financial interests. *See Barry v. Johns*, 82 Wn. App. 865, 868, 920 P.2d 222 (1996) (“We conclude . . . that RCW 42.23.030 applies only to municipal contracts involving business transactions, employment matters and other financial interests . . .”). Because we are not aware of any allegation that Councilmember

Balducci had any actual or potential financial interest in any City contract, we believe the City Attorney correctly concluded that RCW 42.23.030 does not require Councilmember Balducci to recuse herself or take any other action with respect to matters before the Council concerning Sound Transit or East Link.

RCW 42.23.070 prohibits a municipal officer from (1) using his or her position to “secure special privileges or exemptions for himself, herself, or others” (RCW 42.23.070(1)); (2) giving or receiving any compensation, gift, reward, or gratuity for a matter connected with his or her duties (RCW 42.23.070(2)); (3) engaging in any business or professional activity that the officer might reasonably expect would induce him or her to disclose confidential information acquired by reason of his or her official position (RCW 42.23.070(3)); and (4) disclosing confidential information acquired by reason of his or her official position or using such information for his or her personal gain or benefit (RCW 42.23.070(4)).

The City Attorney opined that RCW 42.23.070 did not require Councilmember Balducci to recuse herself from Council discussions or decisions relating to the Council’s preferred alignment for the East Link project. We agree with the City Attorney’s conclusion. Because the Council’s decisions concerning its preferred alignment for the East Link project do not bind Sound Transit, and because Sound Transit, not the City, will make the final decision on the East Link alignment, Councilmember Balducci’s participation in discussions and decisions concerning the Council’s preferred alignment necessarily could not be considered as granting Sound Transit any special privilege or exemption. In addition, the City Attorney was not aware of, and we have not been made aware of, any allegation that Councilmember Balducci has given or received any compensation, gift, reward, or gratuity to or from any person in connection with the Council’s actions or that Councilmember Balducci’s service on the Sound Transit Board has resulted in, or might reasonably be expected to result in, Councilmember Balducci disclosing any confidential information that she has learned by reason of her position on the Council. Accordingly, we agree with the City Attorney’s conclusion that Councilmember Balducci is not required by law to recuse herself from Council policy discussions and decisions concerning the East Link project based on her position as a Sound Transit board member.

The City Attorney also correctly noted that the “appearance of fairness” doctrine, currently codified at RCW Chapter 42.36, would apply in the event that the Council sat in a quasi-judicial capacity for any matter concerning East Link in the future. The statute defines “quasi-judicial proceedings” as actions of a legislative body that “determines the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding.” RCW 42.36.010. Because the appearance of fairness doctrine is expressly limited in application to quasi-judicial proceedings, and because the Council’s discussions and decisions concerning its preferred East Link alignment are not quasi-judicial proceedings under the statutory definition, the doctrine necessarily does not require Councilmember Balducci to recuse herself with respect to such discussions and decisions. In addition, we express no opinion about whether or under what circumstances the appearance of fairness doctrine might require Councilmember Balducci to recuse

herself from any hypothetical future quasi-judicial proceeding. Such analysis would require consideration of the concrete facts surrounding the particular quasi-judicial proceeding at issue.

C. No Provision Of Law Requires Councilmember Balducci To Recuse Herself From Council Discussions And Decisions Concerning Potential Litigation With Sound Transit If Councilmember Balducci Recuses Herself From All Sound Transit Discussions and Decisions Relating To Any Such Dispute

As explained above, because of the possibility that the Council may conduct discussions in executive session concerning the possibility of litigation with Sound Transit, we have been asked to analyze whether, and, if so, under what circumstances, Councilmember Balducci would be legally permitted to participate in those Council discussions. As we also noted above, Councilmember Balducci has informed us that she will recuse herself from all Sound Transit discussions and decisions concerning any potential litigation between the City and Sound Transit, and will formalize that recusal prior to participating in any Council discussions concerning potential litigation with Sound Transit. Accordingly, the question is whether, assuming that Councilmember Balducci recuses herself from all Sound Transit discussions and decisions concerning any potential litigation between the City and Sound Transit, any provision of law prohibits Councilmember Balducci from participating in Council discussions or decisions concerning any such dispute. We believe that no provision of state or local law prohibits Councilmember Balducci from participating in Council discussions or decisions concerning potential litigation with Sound Transit.¹

Councilmember Balducci's participation in Council discussions concerning any potential dispute with Sound Transit could conceivably implicate three of the four provisions of RCW 42.23.070 identified above: (i) RCW 42.23.070(1) (the prohibition on using her position to "secure special privileges or exemptions" for any person); (ii) RCW 42.23.070(3) (the prohibition on engaging in any business or professional activity that she might reasonably expect would induce her to disclose confidential information acquired by reason of his or her official position); and (iii) RCW 42.23.070(4) (the prohibition on disclosing confidential information acquired by reason of his or her official position or using such information for his or her personal gain or benefit).

Assuming that Councilmember Balducci recuses herself from all Sound Transit discussions and decisions concerning any potential litigation with the City, nothing in RCW 42.23.070(3) or (4) should prevent Councilmember Balducci from participating in discussions or decisions on the Bellevue side concerning any potential litigation with Sound Transit. Although Councilmember Balducci would certainly receive confidential information in her position as a Councilmember if she were to participate in Council executive session discussions concerning potential litigation with Sound Transit, like all of the other Councilmembers, Councilmember Balducci will continue to be prohibited

¹ Our analysis considers only Councilmember Balducci's legal obligations as a member of the Council. We express no opinion about whether recusal on the Sound Transit side and participation on the Bellevue side would be consistent with Councilmember Balducci's duties or obligations to Sound Transit.

from disclosing confidential information she acquires in executive sessions of the Council, pursuant to RCW 42.23.070(4) and Council rules governing executive sessions. In addition, assuming that Councilmember Balducci properly recuses herself from all Sound Transit discussions concerning potential litigation with the City, we are not aware of any competing duty, obligation, or outside influence that would act to induce or require Councilmember Balducci to disclose any such confidential information in violation of her duties to the City, despite her recusal on the Sound Transit side.

Neither does RCW 42.23.070(1) prevent Councilmember Balducci from participating in Council discussions and decisions concerning any potential litigation with Sound Transit. There is a dearth of Washington authority interpreting the question of what constitutes the use of a public office to secure “special privileges or exemptions” for another person, but what little authority there is suggests that Councilmember Balducci’s participation in Council discussions and decisions concerning potential litigation with Sound Transit could not, under any circumstances, result in a special privilege or exemption for Sound Transit. *See* AGO 2010 No. 3, at 8 (“A special privilege or exemption is a privilege or exemption to which the person is not legally entitled. A special privilege involves being allowed to do something that would otherwise be prohibited, while a special exemption involves being relieved from doing something that would be otherwise mandated.”). Moreover, as explained above, the appearance of fairness doctrine is limited by statute to quasi-judicial proceedings and therefore does not apply to Council discussions or decisions concerning potential litigation with Sound Transit.

It may be asserted that, irrespective of Councilmember Balducci’s good faith, her participation in Council discussions and decisions concerning any potential litigation with Sound Transit could create the appearance that, based on her position as a Sound Transit board member, she has a conflict of interest that might influence her actions on the Council. In the absence of any provision of state or local law declaring the two positions incompatible or requiring recusal based on the holding of another office or position, however, that issue appears to present a political question, not a legal one. *See Barry v. Johns*, 82 Wn. App. 865, 870, 920 P.2d 222 (1996) (“[I]n a representative democracy, we elect our legislators precisely to carry out agendas and promote causes with full knowledge that their own personal predilections and preconceptions will affect their decisions. As long as these predilections do not lead them to line their pockets or otherwise abuse their offices, we leave the wisdom of their choices to the voters. If the voters do not like their representatives’ agendas or voting decisions, they are free to vote them out of office.”) (internal citations and quotation marks omitted).

Accordingly, we conclude that if Councilmember Balducci properly recuses herself on the Sound Transit side, no provision of state or local law prohibits her from participating in Council executive sessions concerning potential litigation with Sound Transit.

V. Conclusion

We will immediately begin the process of conducting the investigation and analysis described above. Upon completion of those tasks, we will present the City and the Council with a final report setting forth our factual findings and legal conclusions. In the event that we are able to complete our investigation with respect to any particular set of allegations while our investigation remains ongoing with respect to other issues, we will consider at that time whether to issue a final report setting forth our findings and conclusions as to the completed portion of the investigation while we continue to conduct the remainder of the investigation.