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AUG 04 2008
CITY CLERK'S OFFICE
SPOKANE, WA



PUBLIC RECORDS REQUEST
(RCW 42.56)

DEPARTMENT: Clerks Office

NAME: SON WRIGHT DATE: 08-04-08

TELEPHONE: 951-233-0710 E-MAIL: NAR9350@GMAIL.COM

ADDRESS: 3327 W. INDIAN TRAIL PMB 135

CITY: SPOKANE STATE: WA ZIP: 99208

IDENTIFICATION/DESCRIPTION OF RECORD(S) SOUGHT:

Please be as specific as possible. We will be able to process your request faster if you clearly identify the records you are requesting to review. Note that pursuant to RCW 42.56.520, we have five (5) business days to respond to your request.

DEMAND LETTER ON BEHALF OF THE SPOKEMAN-REVIEWER
FOR THE RELEASE OF THE DOCUMENTS NOW IN POSSESSION
OF THE CITY OF SPOKANE KNOWN COLLECTIVELY AS
THE O. YALE LEWIS DOCUMENTS

- | | |
|--|--|
| <input type="checkbox"/> I wish to have copies made (prepayment may be required). | <input type="checkbox"/> Mail records (prepayment required). |
| <input checked="" type="checkbox"/> I wish to review the records before copies are made. | <input type="checkbox"/> Call me - will pick up records. |

I certify that any lists of individuals obtained through this request will not be used for commercial purposes (RCW 42.56.070(9)).

Signature: [Handwritten Signature]

FOR DEPARTMENT USE ONLY:

Date Received: <u>8-4-08</u>	Staff: <u>[Handwritten Signature]</u>
Date Completed: <u>8-4-08</u>	Staff: <u>[Handwritten Signature]</u>
Copies Provided: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Total: \$ <u>1.05</u>
Request Denied: <input type="checkbox"/> Yes <input type="checkbox"/> No	Reason: _____

Comments: _____

SUBMIT COMPLETED FORM TO: City Clerk's Office
5th Floor City Hall
808 W. Spokane Falls Blvd.
Spokane, WA 99201
(509) 625-6350
FAX: (509) 625-6217

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JUL 22 2008

CITY CLERK'S OFFICE
SPOKANE, WA

LAW OFFICES

GORDON, THOMAS, HONEYWELL, MALANCA, PETERSON & DAHEIM LLP

TACOMA OFFICE
201 PACIFIC AVENUE, SUITE 200
TACOMA OFFICE BOX 137
TACOMA, WASHINGTON 98401-0137
TEL: 253-850-8500
FAX: 253-850-8588

REPLY TO TACOMA OFFICE

WILLIAM E. HOLT
ATTORNEY AT LAW

TEL: 253-850-8500
FAX: 253-850-8588
E-MAIL: wholt@gthlaw.com

SEATTLE OFFICE
ONE FINCH SQUARE
600 UNIVERSITY STREET, SUITE 1100
SEATTLE, WASHINGTON 98101-4188
TEL: 206-478-7500
FAX: 206-478-7575

July 18, 2008

Ms. Terri Pfister
City Clerk
Spokane City Hall
808 West Spokane Falls Blvd.
Spokane WA 99201

Re: **Public Records Request of the Spokesman-Review**

Dear Ms. Pfister:

We are legal counsel for the Spokesman-Review with respect to a public records request made by Jonathan Brunt dated April 8, 2008.

As you know, the request was for "all written communication, documents or other information sent to any City of Spokane official from attorney O. Yale Lewis since Mayor Mary Verner took office as Mayor.

It is my understanding that, on or about May 30, 2008, you provided to Mr. Brunt the documents that are listed on Schedule 1 attached hereto. In addition to the document listed on that Schedule, a Redaction Log was enclosed. This identified 50 documents, none of which were produced.

Based upon the City's response, we believe that the City has already violated the Public Records Act in several respects. For example, at least one document on the redaction list should have been produced in full. The first item on the redaction list consists of a letter from Mr. Lewis to Mr. Miggins dated October 31, 2000. That appears to be the same letter referenced in the Court Order dated December 21, 2001 in the case of *Eugster v. City of Spokane*, a copy of which is enclosed. That Order indicates that the letter operated as a waiver of the attorney-client and work product privilege as to the matters expressed therein. Consequently, it appears that the very first item on your Redaction Log should not have been withheld.

It also appears that any of the other documents on the redaction list that address the matters expressed in the October 31st letter should also be released because the privilege has been breached.

GORDON, THOMAS, HONEYWELL,
MALANCA, PETERSON & DAHEIM, LLP

Terri Pfister
July 18, 2008
Page 2

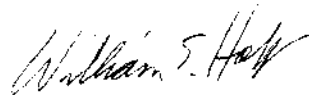
We also believe that the City has violated the Public Records Act by failing to provide copies of the letters and emails that have been withheld even if portions of those letters and emails should have been redacted to protect the attorney-client privilege or work product privilege. In other words, we believe that, at a minimum, you should have produced each of the letters, showing non privileged information showing such things as the letterhead, the addressee's name, the signature on the letter, and who received copies of those documents.

We further believe that any billings that were issued within the time frame of the public request should have been produced pursuant to the request. No billing statements were produced, however.

In light of the foregoing, the Spokesman-Review requests that you promptly provide all of the records that you have wrongfully withheld. We will expect these documents within five days of the date of this letter or, at least, an indication on how long it will take you to provide those records.

Finally, we believe that there are large portions of the 50 documents that should be released because they either do not constitute part of the attorney-client privilege or work product privilege or because that privilege has heretofore been breached. We request that you review this matter more closely and then provide all of the records to which the Spokesman-Review is entitled under the Public Records Act.

Very truly yours,



William E. Holt

WEH:sh
Enclosures
cc: Addy Hatch

SCHEDULE 1

1. First Amended Complaint in the case of *City of Spokane v. Walker Parking Consultants/Engineers, Inc., et al.*
2. The Consolidated Reply Brief of the Appellants in *Miggins v. River Park Square, L.L.C., et al.*
3. A facsimile cover sheet dated December 28, 2000 attaching a draft of the Second Amended Complaint.
4. A letter from Mr. Lewis to Mayor John Powers dated February 7, 2001 regarding billing statement.
5. A facsimile message dated February 8, 2001 from Mr. Lewis regarding *City of Spokane v. Walker* (it is unclear how many of the documents of that facsimile were delivered).
6. Letter dated September 6, 2001 from Michael F. Connelly, City Attorney, to Oliver Staley of the Spokesman-Review.
7. A letter dated April 2, 2001 from Michael Connelly, Interim City Attorney to Mr. Lewis regarding fee dispute with Hendricks & Lewis.
8. Letter dated May 24, 2001 from Mr. Lewis to Mike Connelly regarding the fee dispute.
9. Second Amended Complaint in the case of *City of Spokane v. Walker Parking Consultants/Engineers, Inc.* dated February 7, 2001.
10. City of Spokane's Motion to Amend in *City of Spokane v. Walker Parking Consultants/Engineers, Inc.* dated February 7, 2001.
11. Facsimile coversheet from Hendricks & Lewis to Mayor Powers dated February 15, 2001 attaching the Supreme Court's Opinion in *RPS v. Miggins*.
12. Facsimile coversheet from Hendricks & Lewis to Mr. Milton G. Rowland, Spokane Assistant City Attorney dated February 21, 2001 (enclosing a cost bill).
13. Cost bill in the case of *Miggins v. River Park Square LLC* dated February 2001.
14. Facsimile coversheet from Hendricks & Lewis to Milton G. Rowland dated February 23, 2001.
15. Statement of Arrangements in the case of *Miggins v. River Park Square LLC* dated July 19, 2000.
16. Letter dated March 7, 2001 from Mark D. Schwartz to the Honorable John Powers, Mayor of the City of Spokane.

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ORIGINAL FILED
DEC 21 2001
SUPERIOR COURT
SPOKANE COUNTY, WA

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF SPOKANE

STEPHEN K. EUGSTER,

Plaintiff,

v.

CITY OF SPOKANE, SPOKANE PUBLIC
PARKING DEVELOPMENT AUTHORITY,
SPOKANE DOWNTOWN FOUNDATION,
CITIZENS REALTY CO., LINCOLN
INVESTMENT COMPANY, RIVER PARK
SQUARE LLC, RPS II, LLC, and U.S. BANK
TRUST NATIONAL ASSOCIATION,
Defendants.

No. 00-2-04265-0

ORDER

RIVER PARK SQUARE LLC, and RPS II, LLC.

Third-Party Plaintiffs/Counter Claimants
and Cross-Claimants,

v.

CITY OF SPOKANE; STEPHEN K. EUGSTER
and JANE DOE EUGSTER, husband and wife;
STEVEN CORKER and JANE DOE CORKER,
husband and wife; CHERI RODGERS and
JOHN DOE RODGERS, husband and wife;
JOHN TALBOTT and JANE DOE TALBOTT
husband and wife; JOHN DOES 1-5; STEPHEN
K. EUGSTER, in his capacity as a member of
Spokane City Council; STEVEN CORKER, in
his capacity as a member of Spokane City

ORDER RE MOTION TO QUASH - 1

1 Council; CHERI RODGERS in her capacity as a
2 member of Spokane City Council; DEAN
3 LYNCH, in his capacity as a member of Spokane
4 City Council; ROB HIGGINS, in his capacity as a
5 member of Spokane City Council; PHYLLIS
6 HOLMES, in her capacity as a member of
7 Spokane City Council; ROBERTA GREENE, in
8 her capacity as a member of Spokane City
9 Council; and JOHN POWERS, as Mayor of the
10 City of Spokane,

11 Counter Defendants/Cross Defendants
12 And Third-Party Defendants.

13 STEPHEN K. EUGSTER,

14 Plaintiff,

15 v.

16 COWLES PUBLISHING COMPANY and
17 BETSY COWLES,

18 Third Party Defendants.

19 I. MOTION

20 This matter came before the court on the City of Spokane's Motion to Quash
21 Subpoena Duces Tecum Directed to Prior Litigation Counsel, and for Protective Order.

22 II. HEARING

23 The court heard oral argument on December 10, 2001, commencing at 9:00 a.m.

24 III. APPEARANCES

25 Plaintiff Eugster appeared at the hearing pro se. River Park Square L.L.C., RPS
26 II, L.L.C. and Lincoln Investment Company of Spokane appeared by Robert S.
27 Magnuson of Witherspoon, Kelley, Davenport & Toole, P.S. The City of Spokane
28 appeared by Laurel H. Siddoway of Randall & Danskin, P.S.

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IV. ORDER

Based on the foregoing, the Court hereby ORDERS:

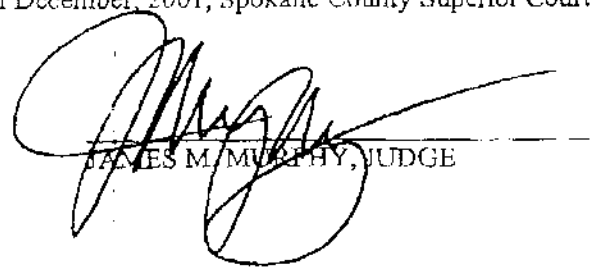
1. The City of Spokane's Motion to Quash Subpoena Duces Tecum is ~~GRANTED IN PART~~ and ~~DENIED IN PART~~, as follows.

2. The subpoena duces tecum shall be responded to in the first instance by the City of Spokane.

3. To the extent the City of Spokane is unable to respond to the subpoena duces tecum and additional responsive documents are in the possession of the Hendricks & Lewis firm, the Hendricks & Lewis firm shall respond.

4. Insofar as the City of Spokane asserts attorney-client privilege, the Court ^{and work product} ~~privilege~~ finds that the release of the October 31, 2000 letter of O. Yale Lewis operated as a waiver ^{and work product} of the attorney-client privilege as to the matters expressed therein and that the consequence of such waiver is that all prior communications with O. Yale Lewis or the Hendricks & Lewis firm on the same subject matter are discoverable, that the City shall produce the documents called for in paragraph 1 of the subpoena, and that in response to paragraph 2 of the subpoena, the City shall produce all opinions of O. Yale Lewis or the Hendricks & Lewis firm prepared up to the time of release by the City of the October 31, 2000 letter.

ENTERED this 21st day of December, 2001, Spokane County Superior Court.


JAMES M. MURPHY, JUDGE

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PRESENTED BY:

RANDALL & DANSKIN, P.S.

By Laurel H. Siddoway

Laurel H. Siddoway, WSBA #15530
Attorneys for Defendants City of Spokane and
Official Capacity Defendants

APPROVED AS TO FORM:

WITHERSPOON, KELLEY, DAVENPORT & TOOLE, P.S.

By Robert S. Magnuson

Robert S. Magnuson, WSBA #19706
Attorneys for Defendants Citizens Realty Co.,
Lincoln Investment Company, River Park
Square LLC and RPS II, LLC