

MARK D. SCHWARTZ
Attorney at Law
Post Office Box 330
Bryn Mawr, Pennsylvania 19010-0330
Telephone & Fax- 610 525-5534

Via fax to 509 625-6217

March 7, 2001

Honorable John Powers
Mayor of the City of Spokane
808 West Spokane Falls Boulevard
Spokane, WA 99201

Re: River Park Square Litigation

Dear Mayor Powers:

For some time I have meant to write to you concerning the developments with respect to the River Park Square litigation. It is now almost four months since our first contact with each other and I am sure that you are well past the learning curve in coming up to speed with the issues in this case.

You will recall that I spent some significant time in meeting with you and Ms. Laurel Siddoway sharing information and outlining theories of liability. At that time it then struck me as odd that you seemed only to be interested in whether or not some citizen's group might have standing to go to court to upend whatever settlement you might secure. You will recall that my advice to you was to come up with a settlement that was in the citizens' best interests. When it came to Ms. Siddoway, her interest seemed solely in making sure that whatever information I had would be turned over. I gave her certain documents and provided her with a virtual road map to information that the City already had access to. Despite my offer of assistance, I have not heard from her since. In my experience, people who ask these kinds of questions are more interested in covering up matters than getting to the bottom of them. Nevertheless I was prepared to put my suspicion aside and withhold judgment.

Now that I have been asked by local parties to review your Amended Complaint as well as the Supreme Court decision, it is a good time for me to register my disappointment, but not surprise, at the way you have handled the situation. Moreover, I feel strongly that you should remove yourself and your office from any matters involving the River Park Square Parking Garage.

Mark D. Schwartz, Esquire
P.O. Box
Bryn Mawr, PA 19010

Phone & fax 610 525-5534

facsimile transmittal

To: Yale Lewis, Esquire

Fax: 206 583-2716

From: Mark Schwartz

Date: 03/07/01

Re: Spokane-Powers

Pages: 4

CC:

MDS

The Honorable John Powers
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The Amended Complaint filed by Ms. Siddoway emasculates the lawsuit earlier filed by Mr. Lewis, all at more cost to the City in terms of legal fees while your library has restricted hours and your streets remain unfixed. Here are a few of my objections:

- In not asking for an accounting it seems clear that you are not interested in where the money went. Oddly enough, the Internal Revenue Service appears to be interested in precisely that issue.
- The lawsuit virtually asks the court to buy into the theory that an "investment appraisal" was appropriate despite the fact that it was not an appraisal at all.
- The lawsuit focuses primarily on Walker Parking when it is clear that there are a host of other defendants. I find it interesting to hear of strained theories of liability of some when there does not seem to be any questioning of the actions of the Foundation's and its counsel or advisors.
- Language with respect to the Developer's role is watered down significantly when it should be strengthened, given the revelations about the Developer's own valuation of the property improvements. I question whether the Developer actually put any equity into the project at all. Interestingly enough, the best evidence against the Developer come from the developer itself.
- The request for declaratory relief amounts to an impermissible request for an advisory opinion from the court on this entire matter. Its sort of like a quarterback closing his eyes and just throwing the ball up in the air hoping that some one will catch it. I am surprised that you, as a litigator, would endorse such a request.

I had hoped that you would have convened settlement discussions between the Cowles and various parties, including community groups, as early as one week after the election. To date there has been nothing that I am aware of.

I have heard of a "new theory" that perhaps the ordinances and resolutions pertaining to the bond issue did not confer the power upon the City Solicitor to give an opinion. At the same time you ignore flagrant noncompliance with the provisions of enabling ordinances or resolutions. This shows an appalling lack of understanding of municipal law.

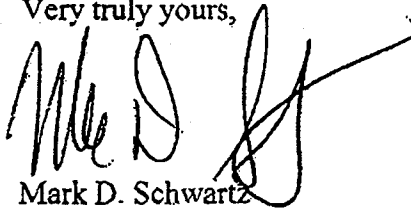
Honorable John Powers
(Continued-3)

When one considers the fact that you are proceeding with this very weak Amended Complaint after a unanimous ruling by the Washington Supreme Court against the Developer, I can not help but question your commitment to getting to the bottom of what happened here. Besides, given the fact that the Developer failed to sue the proper party, why have you not sought sanctions in the form of an award of reimbursement of the City's legal fees from the Developer? The City can certainly use the money.

Finally I am most concerned about the way that you apparently have tried to silence Council members from voicing concerns about River Park Square and appropriated to yourself the resolution of this matter. At the same time, your affiliation with Mr. Ormsby as your campaign treasurer, as well as another connection to the issuer raises in my mind at least, questions of at least the appearance of a possible conflict of interest. Given these relationships, as well as how you have handled yourself to date, it now seems clear that you have no inclination to delve into the Spokane Downtown Foundation's liability for any of this. Your actions seem designed to shoot the City in the foot. Accordingly, perhaps it would be best for all concerned if you disqualified yourself from legal matters pertaining to River Park Square and allow Council to proceed in your stead.

I trust that you will circulate this letter to the members of Council.

Very truly yours,



Mark D. Schwartz

CC: Ms. Laurel Siddoway Esq.
(via fax to 509-624-2528)
All Council Members