
Continued Deposition of

COPY

Michael C. Ormsby

December 5, 2002

IN RE: RIVER PARK SQUARE

CONDENSED TRANSCRIPT AND CONCORDANCE

PREPARED BY

STOREY & MILLER COURT REPORTERS

**601 W. Riverside Avenue
Suite 1030**

Spokane WA 99201-0910

Phone: (509) 456-0122

Fax: (509) 456-0169

1 MR. CRONIN: That is not what it says.
 2 A. That's--
 3 Q. (BY MR. LOWERY) Did you have any reason to doubt
 4 that there was some concern among some City staff
 5 that the parking facility is not generating
 6 sufficient revenue to cover expenses?
 7 A. That's what was reported to me.
 8 Q. By whom?
 9 A. Probably Mr. Koegen, but it could have been
 10 Dr. Novak.
 11 Q. Did it cause you any concern that six weeks after you
 12 paid \$26 million for the garage, it wasn't
 13 generating, or may not have been generating
 14 sufficient revenues to cover expenses?
 15 A. It was an issue but it was more of an issue, I
 16 believe, for the PDA and the City than it was for the
 17 Foundation because it appeared there was still
 18 sufficient money to pay debt service on the bonds
 19 which was our primary concern.
 20 Q. So you, did you have any concern that there wouldn't
 21 be enough money to pay operation and maintenance of
 22 the facility?
 23 A. I guess I don't specifically recall identifying that
 24 I did or didn't have concern on that issue.
 25 Q. The Foundation was created by the developer, was it

359

1 not?
 2 A. Yes, initially it was.
 3 MR. HOFF: Could you read back that last
 4 question and answer.
 5 (Pending question and answer read.)
 6 Q. (BY MR. LOWERY) Exhibit 852, can you just wait a
 7 minute.
 8 (Ex. No. 852, Handwritten notes, marked.)
 9 Q. (BY MR. LOWERY) Can you identify the handwriting on
 10 that document?
 11 A. Yes, I can.
 12 Q. Excuse me?
 13 A. Yes, I can.
 14 Q. Whose is it?
 15 A. It appears to be mine.
 16 Q. Can you tell when these notes were made?
 17 A. Unfortunately I can't, no.
 18 Q. Excuse me?
 19 A. Unfortunately I cannot, no.
 20 Q. The last page has handwriting that says,
 21 "Enforceability opinion, we did not form the
 22 nonprofit." Is that what it says?
 23 A. That's what it says, yes.
 24 Q. Does that mean we being Preston Gates & Ellis did not
 25 form the nonprofit?

360

1 A. I am not sure, I don't remember writing that, but it
 2 could mean that.
 3 Q. Is the nonprofit referred to there the Foundation?
 4 A. I don't know for sure, but I suspect it does.
 5 Q. Look at the third page of the notes, it says, the
 6 first note says, "Annual lease payments have to be
 7 based on fair market value." Is that what it says?
 8 A. Yes.
 9 Q. What did that mean?
 10 A. I don't know.
 11 Q. Did you ever see any opinion of fair market value of
 12 the garage?
 13 A. Not that I recall. This also however could relate to
 14 the ground lease.
 15 Q. The next note you wrote was, "We do not care if
 16 owners rip off?"
 17 A. That's what it says.
 18 Q. What does that mean?
 19 A. I don't have any recollection right now.
 20 Q. Does that relate to the fact that the developers were
 21 being paid \$26 million for a garage that was only
 22 worth 18 million or less?
 23 A. Don't know.
 24 Q. Is the owners referred to here the developers?
 25 A. I don't, I don't recall.

361

1 Q. So when you said we don't care if the owners rip off,
 2 you don't know what that is related to?
 3 MR. OLDHAM: Object to the form.
 4 MR. CRONIN: Asked and answered.
 5 Q. (BY MR. LOWERY) Is that correct?
 6 A. That is.
 7 Q. Exhibit 853.
 8 (Ex. No. 853, Handwritten notes, marked.)
 9 Q. (BY MR. LOWERY) Can you identify the handwriting?
 10 A. Just a second. Yes.
 11 Q. Whose is it?
 12 A. Well, there is two different types of handwriting in
 13 this exhibit. The beginning of the exhibit the first
 14 several pages would appear to be mine. The end of
 15 the exhibit the final few pages would appear to be
 16 Mr. McDevitt's.
 17 Q. Mr. McDevitt's start at PG 15266?
 18 A. No, on my copy they start at 15269.
 19 Q. Oh, okay. Got it. Okay. Let's look at page, second
 20 page of the exhibit, page 15263. You wrote there,
 21 "How to determine fair market value, enough to pay
 22 off the bonds." What did you mean by that?
 23 A. I don't recall as I sit here right now.
 24 Q. Do you recall doing anything to determine fair market
 25 value of the garage?

362