

COPY

MEMORANDUM

TO: W. C. Bell, Planning Department

FROM: Stanley M. Schwartz, Assistant City Attorney

RE: River Park Square Parking Garage

DATE: March 26, 1998

At your request, I am providing this memorandum for the purpose of identifying the ownership interests in the redeveloped River Park Square Parking Garage. Initially, I apologize for not providing you with this memorandum sooner, but my schedule and work activities have been a bit hectic.

The River Park Square Parking Garage will be redeveloped by the developer Citizens Realty and Lincoln Investment Company. Upon completion of this redevelopment it will be sold to a Washington non-profit corporation known as the Spokane Downtown Foundation. The Foundation will issue tax exempt bonds for the purpose of paying the purchase price. The City of Spokane has no obligation, and hence, no ownership interest in the Parking Garage at this point in time. The Parking Garage will be leased to the Spokane Downtown Development Authority. The Authority will have the obligations of collecting parking revenues, maintaining and operating the facility and paying ground rent to the developer for the privilege of using their land for operating the Parking Garage. After all bond debt is paid off, anticipated to be 20 years from the date the bonds are sold, the City will be given the Parking Garage. The City will then be allowed to operate the Parking Garage pursuant to a ground lease with the developer for an additional 25 years.

Thus, it is my conclusion that the redevelopment of River Park Square is not a public project as that term relates to a definable legal interest in the structure as of the date it is remodeled and renovated and sold to the Downtown Spokane Foundation.

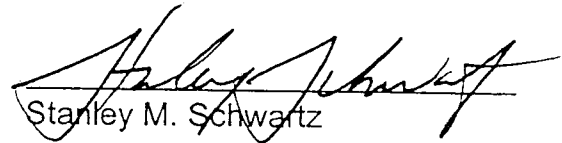
For support of this opinion, I have reviewed the Memorandum Decision from the Superior Court, County of Spokane relating to C.L.E.A.N. v. City of Spokane and Citizens Realty/Lincoln Investment Company wherein the Court wrote with respect to the Parking Garage "the proposed project does not implicate RCW 35.22 (Competitive Bidding Laws) nor SMC 7.06." "The City is not entering into a contract to perform a public work or purchase goods either of which would require competitive bidding. The City is not contracting to construct the garage expansion." Memorandum Decision, pages 15 and 16. Second, in the Municipal Code at 7.06.410B construction project is

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defined as being "paid for wholly or in part by the City". As set forth above, the City is not paying to construct the remodel or renovation of the Parking Garage.

The design review ordinance gives the Design Review Committee authority to make design recommendations on "public projects." SMC 4.13.020A.1. The above description of the project from the deal documents and Superior Court opinion show that the renovated and expanded parking garage is not a public project that is subject to Design Review.

I trust the above is helpful.



Stanley M. Schwartz

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