

CITY OF MILWAUKEE

020073 Form CA-43

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November 1, 2002

Dennis L. Fisher, Esq.
William T. Stuart, Esq.
Meissner, Tierney, Fisher & Nicols
111 East Kilbourn Ave., 19th Floor
Milwaukee, WI 53202

Re: Lakefront Neighborhood v. City of Milwaukee, et al.
Case No. 01CV003493

Dear Messrs. Fisher and Stuart:

Enclosed please find the remainder of the response to your first set of written interrogatories per our discussion in past telephone conversations.

Very truly yours,

HARRY A. STEIN
Assistant City Attorney

HAS:bl
Enc.
59604
1089-2001-1327

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

LAKEFRONT NEIGHBORHOOD
COALITION ET AL.,

Plaintiffs,

Case No: 01CV003493

v.

CITY OF MILWAUKEE, REDEVELOPMENT
AUTHORITY OF THE CITY OF MILWAUKEE, and
NEW LAND ENTERPRISES, LLP,

Defendants.

DEFENDANTS' CITY OF MILWAUKEE AND REDEVELOPMENT AUTHORITY
OF THE CITY OF MILWAUKEE FURTHER ANSWERS TO PLAINTIFF'S
FIRST SET OF WRITTEN INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS

Defendants, City of Milwaukee ("City") and Redevelopment Authority of the City of Milwaukee ("RACM"), by their attorneys, Grant F. Langley, City Attorney, by Harry A. Stein, Assistant City Attorney, hereby submit the following further answers to plaintiff's first set of written interrogatories, and requests for production of documents, supplementing the responses first provided on October 4, 2002:

INTERROGATORIES

Interrogatory No. 1: Identify every parcel of real estate that has been conveyed from the City to the Redevelopment Authority as "blighted property" pursuant to Section 66.1333(5)(c), Wis. Stat., from 1973 to the present. For each such conveyance identified, state the address of the parcel and the date of the conveyance.

ANSWER: This interrogatory was responded to in the October 4, 2002 submission.

Interrogatory No. 2: Identify every parcel of real estate that has been conveyed by the City to the Redevelopment Authority under any authority other than Section 66.1333(5)(c),

Wis. Stat., from 1973 to the present. For each such conveyance identified, state the address of the parcel, the date of the conveyance, and the statutory authority relied on by the City in conveying the parcel.

ANSWER: This interrogatory was responded to in the October 4, 2002 submission.

Interrogatory No. 3: Identify all manuals, rules, guidelines, policies and/or procedures used by the Redevelopment Authority in making a determination that a parcel of real estate is “blighted property” within the meaning of Section 66.1333(5)(c), Wis. Stat., from 1992 to the present.

ANSWER: The Redevelopment Authority makes its determinations on “blighted property” pursuant to the statutes under secs. 66.1333(2m)(bm) and 66.1333(5)(c)2., Stats. and upon staff report and public hearing(s).

Interrogatory No. 4: Identify all manuals, rules, guidelines, policies and/or procedures used by the City in approving the Redevelopment Authority’s designation of a parcel of real estate as “blighted property” within the meaning of Section 66.1333(5)(c), Wis. Stat., from 1992 to the present.

ANSWER: The Common Council utilizes its normal procedure, involving Common Council committees and committee hearings, to consider approval of Redevelopment Authority action regarding “blighted property” as required under sec. 66.1333(5)(c)1., Stats.

Interrogatory No. 5: Identify all manuals, rules, guidelines, policies and/or procedures used by the City in determining whether a street, avenue or road should be vacated under Section 62.73, Wis. Stats., from 1973 to the present.

ANSWER: The City presently follows the statutory procedures for street vacations as set out for first-class cities in sec. 62.73, Stats., and, as applicable in the particular matter, the provisions of sec. 11-19, Milwaukee Code of Ordinances (“MCO”), sec. 81-116, MCO and 308-28, MCO. The legislative history of such ordinances from 1973 to the present may be found in the City’s ordinance books or in the City’s Legislative Reference Library, Room B-

11, 200 East Wells Street, Milwaukee, WI 53202, which are accessible to the public and therefore to the requestor.

Interrogatory No. 6: Identify every transaction in which the City approved the conveyance (whether the transaction closed or not) of City-owned property to a private developer for purposes of developing residential housing from 1992 to the present. For each transaction identified, state the address of the parcel, whether the City approved an agreement to sell the City-owned parcel to the private developer, and the statutory authority relied on by the City in conveying the parcel.

ANSWER: This interrogatory is objected to on the basis that there is no definition of "private developer" and because it is unduly burdensome. For those City properties transferred to the Redevelopment Authority and for eventual conveyance to a third party, the response under Interrogatory No. 1 above is reiterated. For those City properties conveyed under the provisions of the City's surplus disposition ordinance, sec. 304-49, MCO, and in particular those conveyed in subparagraphs 3, 3.5, 6, 7, 9, 11, the conveyance and address of the parcel are matters of public record in the Milwaukee County Register of Deeds of Office and some, or all, of these transactions may have been included with the documents produced on October 4, 2002.

Interrogatory No. 7: Identify every transaction where the City has conveyed and/or leased space beneath a City-owned street, avenue or road for use as a parking area for a private development from 1973 to the present. For each transaction identified, state the address of the parcel, the date of the conveyance and/or lease, and the statutory authority relied on by the City in conveying the parcel.

ANSWER: This interrogatory is objected to on the grounds that it is unduly burdensome since the City has no record of street vacations in which space beneath a City street has, upon vacation, been used for parking. To the extent that space beneath a City street right-of-way is used for parking, it may be permitted if such is authorized under the "Street Walk Basement" ordinance, 245-5 Milwaukee Code of Ordinances. The former Marshall

Fields building has such a use of street walk basement area and the Milwaukee Center project also. Discussion was had to enter into a street subterranean lease for parking purposes with the Milwaukee Center project, but no such lease document has been located yet. The document will be produced if found.

Interrogatory No. 8: Identify any and all elected or appointed officials, employees or consultants of the City and/or Redevelopment Authority who were involved in the decision to issue the Request for Proposals for the Property in 2000.

ANSWER: Julie Penman, Peter Park, Michael Wisniewski, Gregory Shelko, Maria Prioletta, Daniel McCarthy, Michal Dawson, all but Mr. Shelko are employees of the City and having addresses at 809 North Broadway, Milwaukee, Wisconsin. Julie Penman is Commissioner of the Department of City Development ("DCD"), and also serves as Executive Director of the Redevelopment Authority. Michal Dawson is Deputy Commissioner of DCD. Gregory Shelko is also Assistant Executive Director-Secretary of the Redevelopment Authority.

Interrogatory No. 9: Identify any and all elected or appointed officials, employees or consultants of the City and/or Redevelopment Authority who were involved with setting the parameters and requirements of the Request for Proposals for the Property in 2000.

ANSWER: Peter Park and Michael Wisniewski (same address as identified in Interrogatory No. 8 above).

Interrogatory No. 10: Identify any and all persons who:

- (a) performed any study, test or evaluation on whether the Redevelopment Authority should approve and adopt Resolution No. 9247;
- (b) provided any opinions, advice, reports and/or consultation to the Redevelopment Authority on whether the Redevelopment Authority should adopt Resolution No. 9247;
- (c) submitted, sponsored and/or presented Resolution No. 9247 for the Redevelopment Authority's approval;

- (d) who voted in favor of the approval and adoption of Resolution 9247 on behalf of the Redevelopment Authority; and
- (e) who voted against the approval and adoption of Resolution No. 9247 on behalf of the Redevelopment Authority.

ANSWER: This interrogatory is responded to by providing a transcript of the public hearing of the Redevelopment Authority on January 18, 2001.

Interrogatory No. 11: Identify any and all persons who:

- (a) performed any study, test or evaluation on whether the City should approve and adopt File No. 1416;
- (b) provided any opinions, advice, reports and/or consultation to the City on whether the City should adopt File No. 1416;
- (c) submitted, sponsored and/or presented File No. 1416 for the City's approval;
- (d) who voted in favor of the approval and adoption of File No. 1416 on behalf of the City; and
- (e) who voted against the approval and adoption of File No. 1416 on behalf of the City.

ANSWER: This interrogatory is responded to by providing the legislative history of Common Council File No. 001416 and the audio tape of the Zoning, Neighborhoods and Development Committee of the Common Council meeting of January 31, 2001.

Interrogatory No. 12: Identify any and all persons who:

- (a) performed any study, test or evaluation on whether the City should approve and adopt File No. 270;
- (b) provided any opinions, advice, reports and/or consultation to the City on whether the City should adopt File No. 270;
- (c) submitted, sponsored and/or presented File No. 270 for the City's approval;

- (d) who voted in favor of the approval and adoption of File No. 270 on behalf of the City; and
- (e) who voted against the approval and adoption of File No. 270 on behalf of the City.

ANSWER: This item is responded to by providing the legislative history of Common Council File No. 000270, the City Plan Commission file and the audio tape of the City Plan Commission hearing on June 10, 2002 with respect to such resolution, and the audio tape of the public hearing conducted by the Common Council's Public Improvement Committee dated June 12, 2002.

Interrogatory No. 13: Identify any and all persons who:

- (a) performed any study, test or evaluation on whether the City should approve and adopt File No. 20073;
- (b) provided any opinions, advice, reports and/or consultation to the City on whether the City should adopt File No. 20073;
- (c) submitted, sponsored and/or presented File No. 20073 for the City's approval;
- (d) who voted in favor of the approval and adoption of File No. 20073 on behalf of the City; and
- (e) who voted against the approval and adoption of File No. 20073 on behalf of the City.

ANSWER: This interrogatory is responded to by providing the legislative history of Common Council File No. 020073. The City Plan Commission file related thereto and audio tape of the City Plan Commission hearing of June 10, 2002 and the Zoning, Neighborhoods and Development Committee audio tape of the hearing of June 18, 2002.

Interrogatory No. 14: Identify any and all surveys, maps, reports and/or plans relating to the history of the design and development of Kilbourn Avenue from 1900 to the present.

ANSWER: This interrogatory is objected to on the basis that it is unduly burdensome and overly broad (not only as to time, but also as to a street that runs east-west for miles), but to the extent that there are maps or reports related to Common Council File No. 000270, the vacation of the right turn bypass lane, that depict the design of a portion of such street, such documents are produced relative to other interrogatories herein.

Interrogatory No. 15: Identify any and all surveys, maps, reports and/or plans relating to the history of the design and development of Prospect Avenue from 1900 to the present.

ANSWER: This interrogatory is objected to on the basis that it is unduly burdensome and overly broad (not only as to time, but also as to a street that runs north/south for miles), but to the extent that there are maps or reports related to Common Council File No. 000270, the vacation of the right turn bypass lane, that depict the design of a portion of such street, such documents are produced relative to other interrogatories herein.

DOCUMENT REQUESTS

Document Request No. 1: For each transaction identified in your response to Interrogatory No. 1, produce the City's final resolution and/or ordinance adopting and approving the conveyance and all documents relied on by the City in adopting and approving the resolution and/or ordinance.

ANSWER: To the extent that the City has been able to respond to Interrogatory No. 1, such documents have been produced on October 4, 2002.

Document Request No. 2: For each transaction identified in your response to Interrogatory No. 1, produce the Redevelopment Authority's final resolution and/or ordinance adopting and approving the conveyance and all documents relied on by the Redevelopment Authority in adopting and approving the resolution and/or ordinance.

ANSWER: To the extent that the Redevelopment Authority has been able to respond to Interrogatory No. 1, such documents have been produced on October 4, 2002.

Document Request No. 3: For each transaction identified in your response to Interrogatory No. 2, produce the City's final resolution and/or ordinance adopting and approving the conveyance.

ANSWER: To the extent that the City has been able to response to Interrogatory No. 1, such documents have been produced on October 4, 2002.

Document Request No. 4: For each transaction identified in your response to Interrogatory No. 2, produce the Redevelopment Authority's final resolution and/or ordinance adopting and approving the conveyance.

ANSWER: To the extent that the Redevelopment Authority has been able to response to Interrogatory No. 1, such documents have been produced on October 4, 2002.

Document Request No. 5: Produce all manuals, rules, guidelines, policies and/or procedures used by the Redevelopment Authority in making a determination that a parcel of real estate is a "blighted property" within the meaning of Section 66.1333(5)(c), Wis. Stat., from 1992 to the present.

ANSWER: This request has been responded to in the answer to Interrogatory No. 3 above.

Document Request No. 6: Produce all manuals, rules, guidelines, policies and/or procedures used by the City in approving the Redevelopment Authority's determination that a parcel of real estate is a "blighted property" within the meaning of Section 66.1333(5)(c), Wis. Stat., from 1992 to the present.

ANSWER: This request has been responded to by the answer to Interrogatory No. 4 above.

Document Request No. 7: Produce all manuals, rules, guidelines, policies and/or procedures used by the City in making a determination that a street, avenue or road should be vacated under Section 62.73, Wis. Stat., from 1973 to the present.

ANSWER: This request has been responded to by the answer to Interrogatory No. 5.

Document Request No. 8: For each transaction identified in your response to Interrogatory No. 6, produce the City's final resolution and/or ordinance adopting and approving the conveyance of City-owned property to a private developer for purposes of developing residential housing and the agreement, and the agreement that contemplated such transaction.

ANSWER: This request has been responded to in the answer to Interrogatory No. 6 above.

Document Request No. 9: For each transaction identified in response to Interrogatory No. 7, produce the City's final resolution and/or ordinance adopting and approving the conveyance and/or lease of space beneath a City-owned street, avenue or road, and the agreement and/or lease that contemplated such transaction.

ANSWER: No document has been found in City files as of the date of this response. However, with respect to the Milwaukee Center, such a document may have been recorded with miscellaneous condominium documents at the Milwaukee County Register of Deeds Office. If a document is found in City files upon further investigation, it will be produced.

Document Request No. 10: Produce all documents relating to the City's and/or Redevelopment Authority's decision to issue the Request for Proposals for the Property in 2000.

ANSWER: The only document in response to this request is the request for proposal itself that is produced herewith.

Document Request No. 11: Produce all documents used or relied on by the City and/or Redevelopment Authority in setting the parameters and requirements of the Request for Proposals for the Property in 2000.

ANSWER: No documents were used in setting such parameters or requirements.

Document Request No. 12: Produce all studies, tests and/or evaluations relating to whether the Redevelopment Authority should approve and adopt Resolution No. 9247.

ANSWER: This request has been responded to in the answer to Interrogatory No. 10 above.

Document Request No. 13: Produce all opinions, advice, reports, consultations, studies, tests and/or evaluations relating to whether the Redevelopment Authority should approve and adopt Resolution No. 9247, including but not limited to, all traffic safety studies, neighborhood impact studies, and environmental studies.

ANSWER: This request has been responded to in the answer to Interrogatory No. 10 above.

Document Request No. 14: Produce all communications relating to whether the Redevelopment Authority should approve and adopt Resolution No. 9247.

ANSWER: To the extent that the Redevelopment Authority file is produced and such communications are contained in such file, this request has been responded to. In addition, this request has been responded to in the answer to Interrogatory No. 10 above.

Document Request No. 15: Produce all studies, tests and/or evaluations relating to whether the City should approve and adopt File No. 1416.

ANSWER: This request is responded to by producing copies of the Common Council File No. 001416, and the audio tapes of the Common Council committee hearing related to it.

Document Request No. 16: Produce all opinions, advice, reports, consultations, studies, tests and/or evaluations relating to whether the City should approve and adopt File No. 1416, including but not limited to, all traffic safety studies, neighborhood impact studies, and environmental studies.

ANSWER: This request is responded to by producing copies of the Common Council File No. 001416, and the audio tapes of the Common Council committee hearing related to it.

Document Request No. 17: Produce all communications relating to whether the City should approve and adopt File No. 1416.

ANSWER: This request is responded to by producing copies of the Common Council File No. 001416, and the audio tapes of the Common Council committee hearing related to it.

Document Request No. 18: Produce all studies, tests and/or evaluations relating to whether the Redevelopment Authority should approve and adopt File No. 270.

ANSWER: This request is objected to on the basis that the Redevelopment Authority did not approve and adopt File No. 270 or File No. 000270, the Common Council adopted such file. To the extent that there are such documents, they are produced as part of Common Council File No. 000270 and the City Plan Commission and Public Improvements Committee of the Common Council hearings related to such file.

Document Request No. 19: Produce all opinions, advice, reports, consultations, studies, tests and/or evaluations relating to whether the City should approve and adopt File No. 270, including but not limited to, all traffic safety studies, neighborhood impact studies, and environmental studies.

ANSWER: Same objection as to Document Request No. 18, but to the extent that File No. 000270 contain such documents, they are produced as part of the copies of Common Council File No. 000270 and the City Plan Commission and Public Improvements Committee of the Common Council related to hearings on such file.

Document Request No. 20: Produce all communications relating to whether the City should approve and adopt File No. 270.

ANSWER: Same objection as to Document Request No. 18, but to the extent that File No. 000270 contains such documents, they are produced as part of the copies of Common Council File No. 000270 and the City Plan Commission and Public Improvements Committee of the Common Council related to hearings on such file.

Document Request No. 21: Produce all studies, tests and/or evaluations relating to whether the Redevelopment Authority should approve and adopt File No. 20073.

found in the Offices of the City Engineer, 841 North Broadway, Milwaukee, WI 53202, Room 701.

Document Request No. 25: Produce all surveys, maps, reports, and/or plans relating to the history of the design and development of Prospect Avenue from 1900 to the present.

ANSWER: This request is objected to as being overly broad and unduly burdensome and to the extent that such surveys, maps, reports and/or plans are available, they may be found in the Offices of the City Engineer, 841 North Broadway, Milwaukee, WI 53202, Room 701.

Document Request No. 26: Produce all surveys, plans, specifications and/or drawings relating to the New Land Enterprises' development of a residential condominium on the Property.

ANSWER: This request is responded to by production of the drawings and/or plans presented to the Redevelopment Authority of the City of Milwaukee and/or City Plan Commission produced herewith.

Document Request No. 27: Produce all communications between the City and New Land Enterprises regarding the Property, including but not limited to, all correspondence relating to the Option to Purchase dated December 1, 1999 between New Land Enterprises and the Redevelopment Authority.

ANSWER: No such documents exist.

Document Request No. 28: Produce all agreements and/or contracts between the City and New Land Enterprises regarding the Property.

ANSWER: This request is responded to by indicating that there are no agreements and/or contracts between the City and New Land Enterprises regarding the Property.

Document Request No. 29: Produce all communications between the Redevelopment Authority and New Land Enterprises regarding the Property, including but not limited to all correspondence relating to the Option to Purchase dated December 1, 1999, between New Land Enterprises and the Redevelopment Authority.

ANSWER: No such communications exist.

Document Request No. 30: Produce all agreements and/or contracts between the Redevelopment Authority and New Land Enterprises regarding the Property.

ANSWER: Option to Purchase dated August 16, 2001 ("Option") between the Redevelopment Authority and New Land Enterprises is produced herewith.

Document Request No. 31: Produce all communications between the City and/or Redevelopment Authority and New Land Enterprises regarding the Lawsuit.

ANSWER: The correspondence of October 5, 2001 and May 30, 2001 from Ms. Penman to New Land is produced herewith.

Document Request No. 32: Produce all communications between the Redevelopment Authority and New Land Enterprises regarding the Lawsuit.

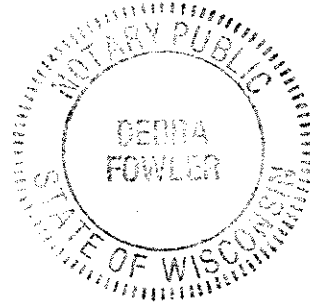
ANSWER: None found.

AS TO INTERROGATORIES:
Nos. 4, 5, 11, 12, 13 and **DOCUMENT**
REQUEST Nos. 15-17

By: Ronald D. Leonhardt
RONALD D. LEONHARDT, City Clerk

Subscribed and sworn to before
me this 31st day of October, 2002.

Debra Fowler
Notary Public, State of Wisconsin
My commission expires 11/16/03

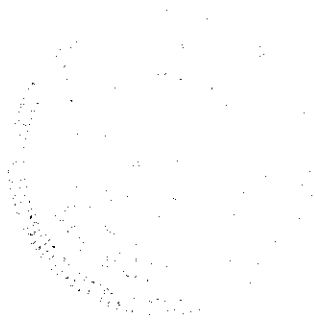


AS TO INTERROGATORIES:
Nos. 3, 4, 10 and **DOCUMENT**
REQUEST Nos. 3, 4, 10, 12-14, 26, 29,
30, and 32

By: Gregory Shelko
GREGORY SHELKO, Assistant Secretary
Redevelopment Authority

Subscribed and sworn to before
me this 31st day of October, 2002.

M.E. Luedtke
Notary Public, State of Wisconsin
My commission expires 1-2-2005

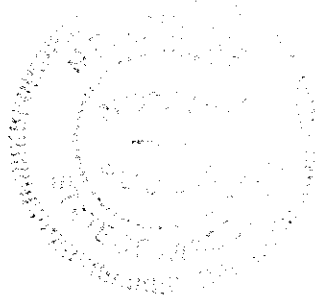


AS TO INTERROGATORIES:
Nos. 8, 9, 12, 13 and **DOCUMENT**
REQUEST Nos. 10, 11, 27, 28, and 31

By: Michael Dawson
~~JULIE PENMAN, Commissioner~~
Department of City Development
Michael Dawson, Deputy Commissioner



Subscribed and sworn to before
me this 31st day of October, 2002.

M.E. Luedtke
Notary Public, State of Wisconsin
My commission expires 1-2-2005

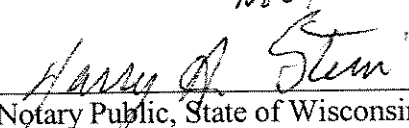


AS TO INTERROGATORIES:

No. 7 and **DOCUMENT REQUEST**
Nos. 7, and 9

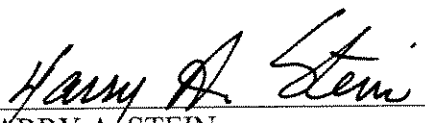

By: 
JEFFREY POLENSKE
City Engineer

Subscribed and sworn to before
me this 1 day of ~~October~~, 2002.


Notary Public, State of Wisconsin
My commission expires 15 PERM

AS TO OBJECTIONS
TO INTERROGATORIES Nos.
1-3, 6, 14, and 15 and **DOCUMENT**
REQUEST Nos. 1-4, 8, and 18-25

GRANT F. LANGLEY
City Attorney


HARRY A. STEIN
State Bar No. 01014722
Assistant City Attorney
Attorney for the Defendants

1089-2001-1327
57147