

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	
)	
H. Martin Sprock, III,)	C/A No. 2022-CP-10-00739
)	
)	
<i>Plaintiff,</i>)	
)	
Versus)	NOTICE OF MOTION
)	AND MOTION TO COMPEL
City of Charleston,)	
)	
)	
<i>Defendant.</i>)	

TO: TIMOTHY A. DOMIN, ESQ., ATTORNEY FOR THE DEFENDANT:

PLEASE TAKE NOTICE that the Plaintiff, H. Martin Sprock, III (hereinafter, the "Plaintiff"), will move before the presiding judge, at a time and place ten days hence or to be arranged at the convenience of the Court for an Order compelling the Defendant to respond to the Plaintiff's Interrogatories and Requests for Production. This Motion is made in accordance with Rule 37(d) of the South Carolina Rules of Civil Procedure and upon the grounds that the Defendant has not answered the Plaintiff's Discovery Requests as required under the Rules. Pursuant to South Carolina Rule of Civil Procedure 37(a)(2), the Plaintiff requests the Court to Order that the Defendant answer the following discovery:

- 1) PLAINTIFF H. MARTIN SPROCK, III'S FIRST INTERROGATORIES TO DEFENDANT CITY OF CHARLESTON (Exhibit 1)
- 2) PLAINTIFF H. MARTIN SPROCK, III'S FIRST REQUESTS FOR PRODUCTION TO DEFENDANT CITY OF CHARLESTON (Exhibit 2)

The Plaintiff served the above-referenced discovery requests on the Defendant on April 12, 2022. (Exhibit 3). In compliance with Rule 11 of the South Carolina Rules of Civil Procedure, the Plaintiff advised the Defendant, on June 2, 2022, that its responses were past due. (Exhibit 4).

To date, the Defendant has not responded to the above-referenced discovery requests. The Plaintiff requests a hearing and a subsequent Order requiring the Defendant to fully answer and

respond to the Plaintiff's above discovery request and to pay for the costs associated with the filing of this motion.



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Attorneys for Plaintiff

Charleston, South Carolina
June 15, 2022

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

)

) Case No. 2022-CP-10-00739

H. Martin Sprock, III,

)

)

Plaintiff,

)

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vs.

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)

City of Charleston,

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Defendant.

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PLAINTIFF
H. MARTIN SPROCK, III'S
FIRST INTERROGATORIES
TO DEFENDANT
CITY OF CHARLESTON

TO: DEFENDANT AND TIMOTHY A. DOMIN, ATTORNEY FOR PLAINTIFF

Plaintiff, H. Martin Sprock, III, by and through the undersigned attorneys, hereby requires Defendant, City of Charleston, ("Defendant" or "the City") within thirty (30) days of service hereof, to answer the following Interrogatories hereinafter set forth, in accordance with Rule 33 of the South Carolina Rules of Civil Procedure.

If any interrogatory is deemed to call for the production of privileged or otherwise protected information or material, you must provide a written statement of the legal basis for the claim of privilege, work product, or other ground for non-disclosure, then identify such information withheld from production.

DEFINITIONS

- A. The term "communication" as used in these requests for production will mean any oral, written, electronic, video, photographic, or other means utilized to express an idea, thought, or information from one person to another, or among persons.
- B. The term "document" as used in these requests for production refers to data or information found on any medium upon which intelligence or information is recorded that is in your possession, custody or control regardless of where located; including without limiting the generality of the foregoing, punchcards, printout sheets, movie film, digital records or digital video files, slides, phonograph records, photographs, microfilm, notes, letters, memoranda, ledgers, work sheets, books, magazines, notecards, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, acknowledgements, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, correspondence, telegrams, drafts, data processing discs or tapes, or computer-produced interpretations thereof, instructions,

- announcements, schedules and price lists. The term "document" includes "writings," "recordings" and "photographs," as those terms are defined in Rule 1001(1) & (2) of the South Carolina Rules of Evidence ("S.C.R.E."), and includes any and all such data whether it is set down on paper, maintained in electronic form (electronically stored information or "ESI") or found in any other form of data compilation. The term "document" also includes the "original" of a writing, recording or photograph, as well as any "duplicate" copy thereof, as those terms are defined in Rule 1001(3) & (4), S.C.R.E. In all cases, where originals and/or non-identical copies are not available, document also means identical copies of original documents and copies of non-identical copies.
- C. "Identify," "identifying," and "identification" when referring to a person mean to provide an identification sufficient to notice a deposition of such person and to serve such person with process so as to require his or her attendance at a place of examination and shall include his or her full name, present or last known address, present or last known business affiliation, home and business telephone number, title or occupation, each of his or her positions during the applicable period of time covered by any answer referring to such person and relationship, if any, to the agency.
- D. "Identify," "identifying," and "identification" when used in reference to a writing or document mean to give a sufficient characterization of such writing or document to properly identify it in a request to produce and shall include, without limitation, the following information with respect to each such document:
- a. The general nature and description of such document;
 - b. The date appearing on such document, and if it has no date, the answer shall so state and shall give the date or approximate date such document was prepared;
 - c. If the document was not signed, the answer shall so state and shall give the name of the person or persons who prepared it; and
 - d. The name(s) of the person(s) having present possession, custody, or control of such document(s).
- E. The term "representative" includes, but is not limited to, all agents, employees, investigators, and any others who directly or indirectly represent, in any manner, the specified party.
- F. The terms "and" and "or" shall be both conjunctive and disjunctive.
- G. "Complaint" shall mean the Plaintiff's Complaint filed in this action.
- H. The "Subject Property" shall mean and refer to the real property commonly referred to as 10 Concord Street and identified as TMS Number 458-12 02-031 by virtue of a deed recorded at Book 0887, at Page 668, in the office of the Clerk of Court for Charleston County.

INTERROGATORIES

1. Give the names and addresses of persons known to the Defendant or Defendant's counsel to be witnesses concerning the facts of the case, indicate whether or not written or recorded statements have been taken from the witnesses, and indicate who has possession of such statements.
2. For each person known to Defendant or Defendant's counsel to be a witness concerning the facts of the case, set forth a summary sufficient to inform Plaintiff of the important facts known to or observed by such witness and provide a copy of any written or recorded statement taken from such witness.
3. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the Defendant that relates to the claims or defenses in this case.
4. Please identify and set forth the names, addresses, and phone numbers of any people who took part in any internal or external discussion with the Defendant related to its decision to condemn the Subject Property.
5. List the names and addresses of any expert witnesses whom the Defendant proposes to use as a witness at the trial of this case. For each witness, please state:
 - a. His/her qualifications to testify;
 - b. The subject matter of which the expert is expected to testify;
 - c. The substance of the facts and opinions to which the expert would be expected to testify;
 - d. A summary of the grounds for each opinion expected to be elicited from the expert;
 - e. List of any and all lawsuits (providing case caption, case number, jurisdictional court, county, state) in which the expert has been retained, and for each lawsuit, indicate whether he/she was retained by a Plaintiff or a Defendant in each case; and

- f. State whether the expert has ever been sued himself/herself; if so, state the case caption, case number of each suit, jurisdictional court, county and state, with a brief description of the allegations in each lawsuit and disposition of each lawsuit.
6. Identify all communications between the City and Thomas F. Hartnett, Thomas F. Hartnett, Jr, and/or the Hartnett Realty Company, Inc. about the Subject Property.
7. Other than its present effort to acquire the Subject Property "by any legal means," including condemnation, has the Defendant ever adopted any plan that included acquiring the Subject Property?
8. Unless your answer to the preceding interrogatory was an unconditional "no," identify every such plan.
9. Identify all communications between the City and Concord Street Investors, LLC about any purchase or sale of the Subject Property.
10. Identify every member of Concord Street Investors, LLC with whom the City discussed any sale or purchase of the Subject Property.
11. Prior to Plaintiff's purchase of the Subject Property, did Concord Street Investors, LLC or any member thereof inform the Defendant that it intended or was contemplating selling the Subject Property?
12. If the above answer is yes, please provide the following details:
 - a. the date that the Defendant was first informed;
 - b. the identity of all persons involved or who otherwise have knowledge of related communications; and
 - c. the substance of the related communications.
13. Does the City claim it plans to use the Subject Property for a park?
14. If you answered yes to the preceding interrogatory, please provide the following:

- a. the first date that the Defendant adopted a plan to use the Subject Property for a park, and
- b. the identity of the person(s) who first proposed Defendant's alleged plan to use the Subject Property for a park.

15. If you answered yes to interrogatory 13 above, please identify the actions taken by the Defendant to further its plan to use the Subject Property for a park, including but not limited to all related analyses, studies, reports, surveys, drawings, conducted or performed in connection with or related to any plan to use the Subject Property as a park.

16. Prior to the City Council voting to acquire the Subject Property at its November 23, 2021 meeting, please identify any analyses, studies, reports, surveys, drawings, calculations, estimating, budgeting, or other due diligence efforts undertaken in connection with or related to any alleged plan to use the Subject Property as a park.

17. Prior to the City Council voting to acquire the Subject Property at its November 23, 2021 meeting, had any citizen or other person or organization requested that the Defendant acquire the Subject Property?

18. If the above answer is yes, please provide the following details:

- a. the date that any such request was communicated to the Defendant;
- b. the identity of the person or organization who made any such request;
- c. the identity of the person who received any such request on behalf of the Defendant;
- d. the reason communicated to the Defendant for why the person or organization making any such request wanted the Defendant to acquire the Subject Property; and
- e. the substance of the Defendant's response to any such request.

19. Since City Council voted to acquire the Subject Property at its November 23, 2021 meeting, please identify all analyses, studies, reports, surveys, drawings, calculations, estimating,

and other efforts undertaken to develop or advance any plan to use the Subject Property as park space.

20. Please identify all communications between the Defendant and third parties, including citizens, relevant to the subject matter involved in the pending action. This interrogatory includes, but is not limited to, all responsive telephone calls, text messages, electronic mail, and other forms of communication exchanged between Mayor Tecklenburg (or on his behalf) and Mr. John Winthrop.

21. Identify the landowner referenced in paragraph 15 of the City's answer.

22. Identify the amount of the "large donation" referenced in paragraph 15 of the City's answer.

23. Where (i.e. what account, safe, drawer, office, banking institution etc.) is the City holding the "large donation" referenced in paragraph 15 of the City's answer.

24. Can the "large donation" referenced in paragraph 15 of the City's answer be used for any purpose?

25. Identify any ways in which the City is restricted in spending the "large donation" referenced in paragraph 15 of its answer by the terms of the donation or otherwise.

26. Other than the landowner identified in paragraph 15, please identify every person or entity who has made any donation to the City for the acquisition of the Subject Property.

27. Other than the landowner identified in paragraph 15, please identify every person or entity who has discussed or been approached about making any donation to the City for the acquisition of the Subject Property.

28. Describe in detail all sources of funding for the acquisition of the Subject Property and related costs or expenses, including any promise or commitment by third parties to reimburse the Defendant or otherwise provide funding.

29. Is John Winthrop funding the City's legal fees for this case or the condemnation case?

30. Is any third-party funding the City's legal fees for this case or the condemnation case?

31. Is any portion of the large donation being used to fund legal fees or expenses (including the appraisal) in this case or the condemnation case?

32. Does the City contend that it can legally exercise the power of condemnation if the alleged "park" use is merely a pretext and there is no real plan for a park at the Subject Property?

33. Does the City contend it can legally exercise the power of eminent domain for the purpose of preventing the development of the Subject Property?

34. Does the City contend that it can legally exercise the power of eminent domain to acquire the Subject Property for the benefit of the private interest of third-part(ies) who are willing to fund the acquisition to advance those private interest(s)?

In accordance with Rule 33, SCRCPP, these interrogatories are continuing until the time of trial and require that answers be supplemented in a timely manner with any new information or answers responsive to them.



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Phone: (843) 727-2200

Attorneys for Plaintiff

Charleston, South Carolina
April 11, 2022

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

H. Martin Sprock, III,

Plaintiff,

vs.

City of Charleston,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

) Case No. 2022-CP-10-00739

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PLAINTIFF

H. MARTIN SPROCK, III'S

FIRST REQUESTS FOR PRODUCTION

TO DEFENDANT

CITY OF CHARLESTON

TO: DEFENDANT AND TIMOTHY A. DOMIN, ATTORNEY FOR PLAINTIFF

Plaintiff H. Martin Sprock, III, by and through the undersigned attorneys, hereby requests Defendant, City of Charleston ("Defendant" or "the City") within (30) days of service hereof, produce the documents hereinafter set forth, in accordance with Rule 34 of the South Carolina Rules of Civil Procedure, for inspection and copying at the office of Walker Gressette & Linton, LLC, 66 Hasell Street, Charleston, South Carolina 29401.

If any document is withheld under the claim of privilege, furnish a list identifying each document for which the privilege is claimed, together with the following information: date, sender, recipient, subject matter of the document, the basis on which privilege is claimed, and the Request(s) to which the document responds.

All documents produced in response to these Requests, whether previously stored electronically or not, should be provided in electronic format, specifically as Optical Character Recognized (OCR'ed) multi-page Portable Format (PDF) files.

DEFINITIONS

- A. The term "communication" as used in these requests for production will mean any oral, written, electronic, video, photographic, or other means utilized to express an idea, thought, or information from one person to another, or among persons.
- B. The term "document" as used in these requests for production refers to data or information found on any medium upon which intelligence or information is recorded that is in your

possession, custody or control regardless of where located; including without limiting the generality of the foregoing, punchcards, printout sheets, movie film, digital records or digital video files, slides, phonograph records, photographs, microfilm, notes, letters, memoranda, ledgers, work sheets, books, magazines, notecards, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, acknowledgements, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, correspondence, telegrams, drafts, data processing discs or tapes, or computer-produced interpretations thereof, instructions, announcements, schedules and price lists. The term "document" includes "writings," "recordings" and "photographs," as those terms are defined in Rule 1001(1) & (2) of the South Carolina Rules of Evidence ("S.C.R.E."), and includes any and all such data whether it is set down on paper, maintained in electronic form (electronically stored information or "ESI") or found in any other form of data compilation. The term "document" also includes the "original" of a writing, recording or photograph, as well as any "duplicate" copy thereof, as those terms are defined in Rule 1001(3) & (4), S.C.R.E. In all cases, where originals and/or non-identical copies are not available, document also means identical copies of original documents and copies of non-identical copies.

- C. "Identify," "identifying," and "identification" when referring to a person mean to provide an identification sufficient to notice a deposition of such person and to serve such person with process so as to require his or her attendance at a place of examination and shall include his or her full name, present or last known address, present or last known business affiliation, home and business telephone number, title or occupation, each of his or her positions during the applicable period of time covered by any answer referring to such person and relationship, if any, to the agency.
- D. "Identify," "identifying," and "identification" when used in reference to a writing or document mean to give a sufficient characterization of such writing or document to properly identify it in a request to produce and shall include, without limitation, the following information with respect to each such document:
- a. The general nature and description of such document;
 - b. The date appearing on such document, and if it has no date, the answer shall so state and shall give the date or approximate date such document was prepared;
 - c. If the document was not signed, the answer shall so state and shall give the name of the person or persons who prepared it; and
 - d. The name(s) of the person(s) having present possession, custody, or control of such document(s).
- E. The term "representative" includes, but is not limited to, all agents, employees, investigators, and any others who directly or indirectly represent, in any manner, the specified party.

- F. The terms “and” and “or” shall be both conjunctive and disjunctive.
- G. “Complaint” shall mean the Plaintiff’s Complaint filed in this action.
- H. The “Subject Property” shall mean and refer to the real property commonly referred to as 10 Concord Street and identified as TMS Number 458-12 02-031.

REQUESTS FOR PRODUCTION


1. All documents used or consulted in the preparation of your Answers in this Action or your responses to the Interrogatories served herewith.
2. All documents identified in response to your Answers to Interrogatories.
3. All statements, whether written or recorded, taken from any party, individual or witness, or any of their agents or servants, related to the issues referred to in the Complaint, or otherwise having any bearing upon this litigation.
4. With regards to any expert witnesses identified in Answers to Interrogatories:
 - a) All reports and other documents prepared by the expert;
 - b) All documents sent to the expert by the Defendant or its counsel;
 - c) All documents constituting communications with the expert;
 - d) All documents setting forth the compensation agreement between the Defendant and the expert; and,
 - e) All documents, including a current curriculum vitae, used to establish the Expert’s qualifications for trial purposes.
5. All documents constituting, relating to, or referring to appraisals or estimates of the value of the Subject Property.
6. All communications with any appraiser or appraisal firm concerning any appraisal of the Subject Property.
7. All documents relating to or referring to the anticipated use of the Subject Property following its condemnation.

8. All documents associated with applications for permits and approvals from any governmental agencies for any park allegedly intended to be constructed on the Subject Property.
9. All documents relating to or referring to reasons for the acquisition of the Subject Property by the Defendant.
10. All analyses, studies, or calculations prepared by engineers or other qualified persons related to the anticipated use of the Subject Property before or following the filing of the condemnation action.
11. All the Defendant's policies, guidelines, procedures, guidelines, best practices, and any other possible written standard or benchmark used by the Defendant to determine whether to acquire any property for, or add property to, the Defendant's park system.
12. All Intergovernmental agreements, other agreements, MOUs, MOAs, or other documents reflecting any understanding Defendant or other governmental body or agency related to the funding for the acquisition of the Subject Property and any related costs or expenses.
13. All analyses, studies, reports, or calculations related to the anticipated use of the Subject Property following its condemnation.
14. The projected construction schedule for any plan to convert the Subject Property into park space, including commencement date and estimated completion date.
15. Any projected construction budget or estimate for conversion of the Subject Property into park space.
16. Any projected maintenance or operation budget or estimate for use of the Subject Property as a park.
17. All documents related to the proposed construction schedule or timetable for construction and completion of any park on the Subject Property
18. All construction plans or drawings for a park on the Subject Property.

19. All RFPs or bid request documents seeking bids or proposals for the construction of a park on the Subject Property.
20. All contracts for the construction of a park on the Subject Property.
21. All documents relating to funding for the acquisition of the Subject Property and any related costs or expenses.
22. A copy of any check for the “large donation” referenced in paragraph 15 of the City’s answer.
23. A copy of any wire confirmation of the “large donation” referenced in paragraph 15 of the City’s answer.
24. If the large donation was made in cash, Plaintiff requests permission to physically inspect the donation.
25. Copies of any other donations related to the Subject Property.
26. Any document evidencing any payments made by the City to any party out of the “large donation” referenced in paragraph 15 of the City’s answer.
27. All criteria, standards, ordinances, regulations, or industry standards that apply to any determination by the Defendant of how it might use the Subject Property.
28. All surveys of the Subject Property.
29. Any documents comprising or illustrating potential site plans for the Subject Property, before or after the condemnation action.
30. All communications, whether written or electronic, internal or external, between, among, or within the Defendant and/or any third-party that relate to or reference: acquisition (including, but not limited to, through condemnation) of the Subject Property; reasons for seeking to acquire the subject property; construction of one or more residences on the Subject Property (or

preventing or inhibiting the same); and any contemplated use of the Subject Property following acquisition by the Defendant.

31. All communications between the Mayor and John Winthrop related to the Subject Property or this action, including all text messages.
32. All documents upon which you intend to rely upon to support your claims or defenses in this action, or which you intend to offer into evidence as exhibits at a trial in this case.
33. All documents relating to the subject matter of this action.
34. All documents requested above differing from the original by virtue of additions, deletions or marginal notations.
35. All drafts of all documents requested above.


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Attorneys for Plaintiff

Charleston, South Carolina
April 11, 2022



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April 11, 2022

By Electronic Mail

Timothy A. Domin, Esq.
Clawson and Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492-8144
TDomin@clawsonandstaubes.com

RE: City of Charleston v. Sprock (10 Concord)
Our File No. 8351.001

Dear Mr. Domin:

Attached please find Plaintiff's First Set of Interrogatories and First Set of Requests for Production to Defendant with Certificate of Service.

Sincerely,

WALKER GRESSETTE FREEMAN & LINTON, LLC

A handwritten signature in blue ink that reads "Nancy Jane Dennis".

Nancy Jane Dennis
Paralegal

Enclosures (As Stated)

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

)

) Case No. 2022-CP-10-00739

H. Martin Sprock, III,

)

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Plaintiff,

)

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vs.

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CERTIFICATE OF SERVICE

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City of Charleston,

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Defendant.

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The undersigned employee of Walker Gressette & Linton, LLC, counsel for the Plaintiff, does hereby certify that service of Plaintiff's First Set of Requests for Production and First Set of Interrogatories to Defendant City of Charleston in the above-captioned matter was made upon all counsel of record by electronic mail this 12th day of April 2022:

Timothy A. Domin
Clawson and Staubes
126 Seven Farms Drive, Suite 200
Charleston, SSC 29492-8144
Email: tdomin@clawsonandstaubes.com

Nancy Jane Dennis
Paralegal



G. Trenholm Walker
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Direct: 843.727.2252
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June 2, 2022

VIA EMAIL ONLY (TDomin@clawsonandstaubes.com)

Timothy A. Domin, Esq.
Clawson and Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492-8144

RE: City of Charleston v. Sprock (10 Concord)
Our File No. 8351.001

Dear Counsel:

Please allow this letter to serve as consultation with opposing counsel prior to the filing of a formal motion to compel, pursuant to Rule 11 of the South Carolina Rules of Civil Procedure.

Plaintiff's First Set of Interrogatories and First Set of Requests for Production to Defendant were served upon your client, City of Charleston, on April 11, 2022. If you need an extension of time to respond to these requests, please contact me. Otherwise, please provide your answers to me by June 12, 2022, to avoid my having to move the Court for assistance in compelling your responses.

With kind regards, I am

Sincerely,

WALKER GRESSETTE & LINTON, LLC

A handwritten signature in blue ink, appearing to read "John P. Linton, Jr.", is written over the typed name.

John P. Linton, Jr.

JPL/mem