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April 2, 2001

RECEIVED
HENDRICKS & LEWIS
4-4-01 SKR

O. Yale Lewis, Jr.
Hendricks & Lewis
999 Third Avenue, Suite 2675
Seattle, WA 98104

Re: Fee dispute between City of Spokane and Hendricks & Lewis, P.S.

Dear Mr. Lewis:

I am in receipt of your letter of March 9, 2001, regarding the fee dispute between Spokane and your law firm. In that letter, you ask several questions. I will try to respond.

First, you ask us to "identify the subsections of RPC 1.5 that [we] believe warrant a revision of [your] fees." I believe that Mayor Powers' letter to you dated March 2, 2001, adequately spells out that under RPC 1.5(a), "A lawyer's fee shall be reasonable." We believe that your firm's fees were unreasonable. Your firm has billed many hundreds of thousands of dollars for work that amounts (in the mandamus case) to (a) reviewing several boxes of documents, (b) legal research and writing involving several briefs and a few affidavits, and (c) attending a few hearings and meetings. On the *Walker Parking*, case, you have, in addition, put together a Complaint and discovery requests. No depositions were taken, and the fee includes retention of no experts, and no witness interviews.

Second, you ask us to "refer [] to the billing line items that [we] consider to be unreasonable." This puts the shoe on the wrong foot. The attorney has the burden of proving his fees were reasonable. *Dailey v. Testone*, 72 Wn.2d 662, 435 P.2d 24 (1967).

However, without waiver, a few points should be made. At the time of your consolidated reply brief in the mandamus case, you had already committed many thousands of dollars to legal research, and because the arguments and record on appeal are the same as in the trial court—and a reply brief cannot raise new issues—it would be assumed that most of the research was already performed. Yet if we evaluate the charges for one brief, that Reply Brief, we see

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that your time alone is billed in excess of \$20,000.00, with no more description than a very general research and writing description—and others from your firm billed thousands also. This is clearly excessive.

Another example: In December 2000, your firm's primary task was to prepare for and attend oral argument. You brought with you \$150 per hour attorneys to turn visual aids (knowing that other lawyers, including attorneys from this office, would be there). The total bill for December 2000 was at least ten times what we would expect under the circumstances.

We would like to arbitrate this dispute before the Washington State Bar Association. You did not respond to this suggestion in your letter of March 9. Please advise how you would like to proceed.

Very truly yours,



Michael F. Connelly
Interim City Attorney