

# EUGSTER LAW OFFICE

A Professional Services Corporation  
423 WEST FIRST AVENUE  
100 MINNESOTA BUILDING  
SPOKANE, WASHINGTON 99201

---

TEL. (509) 624-5566  
FAX (509) 838-4274  
www.eugsterlaw.com

Stephen K. Eugster  
eugster@eugsterlaw.com

Cynthia Lawson, Paralegal  
clawson@eugsterlaw.com

May 17, 2006

Via fax to: (509) 625-6802  
Via e-mail to: [Jwizner@SpokaneCity.org](mailto:Jwizner@SpokaneCity.org)

Joe Wizner  
Department Head  
Building & Code Enforcement  
3rd Floor, City Hall  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201

## **Re: River Park Square Parking Garage**

Dear Joe:

It has over a month since the tragic and painful death Jo Ellen Savage at the River Park Square Parking Garage on April 8, 2006.

After the RPS Parking Garage Public Nuisance Complaint was filed in Spokane Superior Court a few days ago, the City of Spokane finally took action and scheduled a hearing to take place today regarding the safety of the garage.

Last week, the city received a report about the garage and its "spandrels" from the firm of Wiss, Janney, Elstner Associates of Northbrook, Illinois (herein WJE) dated May 12, 2006.<sup>1</sup>

The main conclusion of the report is that the "spandrels", either as built or as designed, meet current building code requirements. That is, that the spandrels meet the requirements for "vehicle barriers" found in IBC §1607.7.3.

---

<sup>1</sup> From transmission information at the top of the report it appears that it came to you (or came to others and then to you) though the offices of the public relations firm of the owners of the River Park Square Parking Garage, Rocky, Hill & Knowlton.

As this letter will explain, there is a glaring fallacy in the report.

The conclusion reached by Richard A Dethlefs, P.E., S.E., Project Engineer for WJE is as follows:

. . . it is our opinion that the vertical barriers in the River Park Square parking garage are in general conformance with the current code requirements for vehicle barriers.

This opinion is wrong. It is wrong because the spandrels are not “vehicle barriers” as defined by IBC §1607.7.3.

The IBC defines “vehicle barriers” as follows:

§1607.7.3 Vehicle barriers. Vehicle barrier systems for passenger cars shall be designed to resist a single load of 6,000 pounds (26.70 kN) applied horizontally in any direction to the barrier system and shall have anchorage or attachment capable of transmitting this load to the structure. For design of the system, the load shall be assumed to act at a minimum height of 1 foot, 6 inches (457 mm) above the floor or ramp surface on an area not to exceed 1 square foot (305 mm<sup>2</sup>), and is not required to be assumed to act concurrently with any handrail or guard loadings specified in the preceding paragraphs of §1607.7.1. Garages accommodating trucks and buses shall be designed in accordance with an approved method that contains provision for traffic railings. [Emphasis added.]

The spandrel that failed, the other spandrels which have failed, and the remaining spandrels attached to the garage parking decks are not “vertical barrier[s]” as contemplated or defined by IBC §1607.7.03. **(Or if they are, they fail to comply with IBC §1607.7.03 – see discussion below.)**

This section says “[v]ehicle barrier systems for passenger cars shall be designed to resist a single load of 6,000 pounds (26.70 kN) applied horizontally in any direction to the barrier system and shall have anchorage or attachment capable of transmitting this load to the structure.”

An RPS spandrel cannot be said to be a “vehicle barrier system” because the spandrels do not have “anchorage or attachment capable of transmitting this load [the single load of 6,000 pounds] to the structure” of the garage.

The standard by which the vehicle barrier is tested also makes it clear that the spandrels are not “vehicle barrier systems.” The design of the system requires that the “load shall be assumed to act” at a certain height “above the floor or ramp surface.” Here, there was no “floor or ramp surface” for the testing the load or measuring the load because the “floor or ramp

surface” of the spandrel – the horizontal part of the spandrel – was not the structure of the garage, it was a part of the spandrel.

Note what the RPS Garage spandrel looks like. It is not a wall. It is something else. It is not a barrier. It may be an extension of the deck of the garage. It is not a wall or vertical barrier attached deck of the garage. It is an “L” shaped decorative panel. It is only that.

One can also see the fallacy of the WJE’s opinion or conclusion that the spandrel is a code complying Vehicle Barrier under IBC §1607.7.03 by looking at remains of the spandrel which broke causing the death of Jo Ellen Savage. The remains of a part of the spandrel are still in place and are visible to the eye from the sidewalks and streets below (including immediately below) or from the deck of the garage itself.

The spandrel broke just above the edge of the garage deck. Anyone who has used a lever to lift a rock will have the sense to know that the way the spandrel attached to the deck of the garage would prevent load on the inside side of the upright portion of the spandrel from being “transmitt[ed] . . . to the structure” of the garage.

That is to say, the load to the spandrel, activated or caused to be put in motion through the structure of the spandrel, would not end up being transmitted to the structure of the garage. Instead, at the point where the spandrel attached to the deck of the garage, it would be transmitted back to the spandrel causing the spandrel to break or shear at that point of attachment to the deck of the garage.

This is exactly what has happened in the case of the death of Jo Ellen Savage.

I believe that is what has happened with regard to past spandrel failures.

In actual fact, if the spandrels are said to be a “vehicle barriers”, then they must comply with the requirements for vehicle barriers as set forth in IBC §1607.7.03. The spandrels in place as built or as designed do not meet the requirements of the code.

The River Park Square Parking Garage is a public nuisance.

There will be another spandrel failure. It is only a matter of time before it happens again.

When the next spandrel fails another vehicle may well fall from the RPS garage parking deck. This next time, there may well be more than one death. This next time the falling vehicle may have more than one passenger in it, and it may fall on several people walking on the sidewalk on Spokane Falls Blvd. or eating lunch or dinner at the Rock City Grill at its outside restaurant area beneath the spandrels.

I sincerely hope you and the City will not be deceived by the WJE report. My view is that it is your job is to protect the health and welfare of the citizens of the City of Spokane and of the people who come to Spokane to participate in our community. It is my view that your job is not to find a rationalization for claiming that what is obviously a nuisance is not a nuisance and

Joe Wizner  
RPS Garage 2006, Code Violations  
May 17, 2006  
Page - 4

that what is obviously a violation of the building code is instead compliance with the code.<sup>2</sup>

Very truly yours,

EUGSTER LAW OFFICE PSC

/s/ Stephen K. Eugster

Stephen K. Eugster

SKE/ske

cc:

Dennis Hession, Mayor, City of Spokane  
City of Spokane Council Members  
William D. Symmes, Attorney for RPS Parking Garage  
Milt Rowland, Assistant City Attorney

C:\WIP\RPSNuisance\\_weizner2.wpd

---

<sup>2</sup> For a little inspiration regarding the existential position you are in you might want to read Henrik Ibsen's play, AN ENEMY OF THE PEOPLE (1882).