NO. 95745-2

SUPREME COURT
OF THE STATE OF WASHINGTON

THE CITY OF SEATTLE, a municipal corporation,

Respondent,

v.

HUGH K. SISLEY AND MARTHA E. SISLEY, husband and wife, et al.,

Appellants.

ANSWER TO PETITION FOR REVIEW OF HUGH AND MARTHA SISLEY

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I. INTRODUCTION

Appellants Hugh and Martha Sisley seek review of the Court of Appeals' determination that the trial court did not abuse its discretion in managing discovery. This uncontroversial ruling does not concern a significant constitutional question, an issue of substantial public interest, or any other consideration that might make review appropriate pursuant to RAP 13.4(b). The Petition for Review should be denied.

In the decision below, Division I of the Court of Appeals[1] affirmed trial court rulings that focused discovery on the narrow issue before it: the City of Seattle's ("City's") contemplated acquisition of a vacant lot owned by the Sisleys for use as a public park pursuant to an authorizing ordinance. After considering the appropriately defined record, the trial court ruled that the City's condemnation of the Sisleys' property satisfied the legal standard for public use and necessity ("PUN").

In a portion of the Court of Appeals' opinion that the Sisleys do not challenge, the Court found that voluminous evidence in the record showing the need for parks and open space in the increasingly dense Roosevelt neighborhood satisfied PUN requirements. The Court of Appeals also considered the Sisleys' argument that the condemnation was

[1] The Court of Appeals Opinion ("Op.") is attached to the Sisleys' Petition for Review ("Pet.") at Appendix 1.

prompted by alleged animus towards them. The Court of Appeals rejected this argument because well-established Washington law holds that condemnations are proper where there is a genuine need and the condemnor intends to use the property for the avowed purpose, even if the condemnor is motivated in part by improper considerations. In short, the Court of Appeals held that the standards governing public use and necessity reflect deference to the legislative decisions underlying the selection of property for condemnation.

The Sisleys' Petition for Review does not seek review of the Court of Appeals' substantive holdings on PUN. Instead, they only challenge the trial court's management of discovery pursuant to CR 26(c). But, as the Court of Appeals found, there was no abuse of discretion.

At root, the Sisleys' Petition for Review is not really about discovery rulings, but rather it is a misguided effort to revive their "animus" argument where they do not challenge the substantive law. This is illustrated by the Sisleys' own words. Although the Court of Appeals found that the Sisleys "had a meaningful opportunity to be heard," the Sisleys now assert that the "the courts below erred in denying the Sisleys access to information, documents, and witnesses relevant to City's true reasons for condemning their property." Pet. at 20 (emphasis supplied).

This Court should deny review.

II. COUNTERSTATEMENT OF THE CASE

A. The Roosevelt Neighborhood and The Property.

The Roosevelt neighborhood is "an underserved community that lacks enough quality open space for public use."[2] The City has long identified the need for more park space in Roosevelt—dating back to neighborhood plans developed in the late 1990s.[3]

For years, the City has been engaged with the community regarding the need for more park space in Roosevelt and preserving Roosevelt High School's view corridors.[4] Development pressure has only intensified the need for park space. In 2011, for example, Roosevelt was upzoned to allow for increased development density—and Sound Transit is scheduled to open a new light rail station in the neighborhood in 2020.[5]

As part of City-wide planning, the City's Department of Parks and Recreation ("DPR") prepared a Development Plan and Gap Update Report in 2011 which reflects Roosevelt's planned density increase and the

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[2] CP 357:16-17; Op. at 2.

[3] CP 67 at ¶¶ 2-4; CP 357:18-20; CP 358:12-19; CP 749 at 46:19-47:15; RP 48:13-24; Op. at 2.

[4] CP 67:3-6; CP 413, No.1 at 15:33-15:59; CP 413, No. 2 at 27:35-29:00, 29:05-29:40; 53:22-54:27; CP 358:3-7; CP 750 at 50:23-51:8; CP 759 at 86:2-19; CP 1028:6-9; RP 48:13-24; Op. at 3. Chip Nevins, an acquisition planner for the City's Parks Department, has spent several years working with the community to identify possible park spaces in Roosevelt. CP 67:1-20; CP 759 at 85:22-86:19, 87:9-13; CP 1027:24-1028:25; Op. at 3.

[5] CP 71:6-13, 72:1-6; CP 1528; Op. at 3.

corresponding lack of sufficient park and open space.[6] And in January 2012, the Seattle City Council passed Resolution 31347, which declared the City's intent "to promote and enhance the livability" of Roosevelt in the face of new development and in furtherance of "livability, social equity, and neighborhood revitalization[.]"[7]

In 2015, after the City allocated funds to address Roosevelt's park needs, Chip Nevins of DPR evaluated the entire Roosevelt neighborhood to identify potential park sites.[8] In doing so, Mr. Nevins consulted the 1998 Roosevelt Neighborhood plan, the 2011 Development Plan, the 2011 Gap Report, and Resolution 31347.[9] Ultimately, DPR concluded that the Sisleys' property—a vacant lot approximately 9,000 square feet in size and located in the core of the neighborhood in front of Roosevelt High

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[6] CP 67 at ¶¶ 2-4; CP 357:18-20; CP 358:12-19; CP 749 at 46:19-47:5; CP 1028 at ¶ 5; Op. at 3.

[7] CP 71-76; Op. at 3.

[8] CP 67:3-14; CP 758 at 84:8-18; CP 761 at 93:6-22; Op. at 3.

[9] CP 67 at ¶¶ 2-4; CP 749 at 48:2-16; CP 1028-29 at ¶¶ 3, 5-7; Op. at 3. Mr. Nevins used the general criteria that DPR considers when evaluating potential park space, e.g., does a potential site service an identified "gap" in park space within a neighborhood; is it on a pedestrian route; is it relatively flat; does it have good exposure to sunlight; is it underutilized and non-contaminated; and where is the need in relation to land that could potentially be acquired? CP 754 at 68:11-25; CP 758 at 84:8-18; CP 1029 at ¶¶ 7-8; RP 48:2-11; Op. at 3-4.

School (the "Property")—offered the best opportunity to provide open space that would satisfy multiple community needs.[10]

B. The Legislative Process.

In September 2015, a City Council committee met to consider acquiring the Property for a public park through Council Bill 118509.[11] The Committee received public comment and heard from DPR representatives and the City's Budget Director regarding (i) Roosevelt's historical open space and park needs, (ii) the impact of the planned light rail station and anticipated neighborhood density increase, and (iii) DPR's selection of the Property.[12]

The Committee then discussed the City's competing policy goals of providing open space and affordable housing given increasing neighborhood density, as well as how acquiring the Property for a park would foster the former goal.[13] The Committee unanimously passed the Council Bill for consideration by the full Seattle City Council.[14]

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[10] CP 67 at ¶ 5; CP 357:16-358:19; CP 358:3-19; CP 413, No. 1 at 11:08-12:45, 14:28-14:47, 15:33-16:36, 18:40-21:23; CP 760 at 92:10-25, CP 761 at 93:1-5, 17-22, 94:15-95:2; CP 1028-29 at ¶¶ 5-8; CP 1382; RP 48:2-9, 49:10-50:2; Op. at 4.

[11] CP 413, No. 1 at 00:00-22:45; Op. at 4.

[12] CP 413, No. 1 at 2:20-9:14 and 10:37 – 22:43; Op. at 4.

[13] *Id.*

[14] CP 431, No. 1 at 22:22-22:43; Op. at 4.

On October 5, 2015, the City Council heard public comment on the proposed acquisition of the Property, and members of the community expressed support.[15] Several Councilmembers discussed the proposed acquisition, neighborhood needs, and related policy issues.[16]

The City Council unanimously passed the Ordinance that the Property "be acquired for open space, park, and recreation purposes for the City through negotiations and the use of eminent domain (condemnation) if necessary."[17]

C. The Condemnation Action.

As provided for by the Ordinance, the City sought to negotiate with the Sisleys. The Sisleys did not respond, and the City then filed a Petition for Condemnation in King County Superior Court.[18]

1. The Sisleys' broad discovery.

The City filed an application for a decree of public use and necessity.[19] The Sisleys responded by propounding broad discovery

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[15] CP 413, No. 2 at 10:25-31:03; Op. at 4.

[16] CP 413, No. 2 at 50:00-55:17.

[17] CP 359:1-3; CP 413, No. 2 at 55:18-55:35; Op. at 4. The Sisleys did not attend the October 5 Committee meeting and there is no evidence that they sought to provide any input to the Committee or the City Council. CP 413 at No. 1; CP 991 at ¶ 7; Op. at 4.

[18] CP 1-31; CP 771 at 136:16-25; CP 772 at 137:1-5; CP 991-992 at ¶¶ 9-10; Op. at 5.

[19] CP 40-51; Op. at 5.

largely unrelated to PUN issues.[20] By way of example, the Sisleys requested discovery concerning: (a) the Seattle Park District, a voter-approved funding mechanism for Seattle parks; (b) other Sisley-owned properties; (c) all communications regarding the Property; and (d) other conduct by and court judgments against the Sisleys.[21] The Sisleys also noticed six (6) depositions, including the deposition of then-Mayor Edward Murray.[22]

The City provided written responses and objections to the Sisleys' written discovery, produced documents, and made Chip Nevins available for deposition.[23] The parties thereafter engaged in motion practice regarding the proper scope of discovery, and the trial court granted the City's motion for a protective order and concurrently denied the Sisleys' motion to compel.[24]

The trial court ruled that the "scope of discovery in this matter (including depositions) with respect to the Court's assessment of public

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[20] CP 217 at ¶ 4; CP 226-237; CP 259-282; CP 298; Op. at 5.

[21] CP 229-232; CP 298; Op. at 5.

[22] CP 217 at ¶ 4; CP 259-282; Op. at 5.

[23] CP 599 at ¶ 9; CP 618-645; CP 738-773; Op. at 5. The City's responses and objections were based on Washington law regarding the scope of judicial inquiry and review with respect to issuing a PUN decree, which the City detailed in a letter to the Sisleys. CP 618-645.

[24] CP 573-576; Op. at 5.

use and necessity" should be "limited to the contemplated acquisition of the Sisleys' property for a public park pursuant to Council Bill 118509 and Ordinance 124880."[25] Accordingly, the trial court thus that the Sisleys were not entitled to depose then-Mayor Murray or DPR personnel other than Mr. Nevins.[26]

The Sisleys responded to the discovery orders by immediately serving a further set of discovery that was substantively identical to their prior requests.[27] The City again provided responses and objections in accordance with the applicable law, as well as the discovery orders.[28] The next day, the Sisleys propounded more discovery, noting four (4) depositions of City employees, officials, and a member of the board of park commissioners.[29] Immediately following the parties' meet-and-confer, the Sisleys served more discovery.[30]

The Sisleys' additional discovery again presented a wide scope of inquiry, requesting information regarding the City's 2000 and 2008 parks levies and seeking depositions of persons with no involvement in the

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[25] CP 576 at ¶ 1; Op. at 5.
[26] CP 576 at ¶¶ 2-3; Op. at 5.
[27] CP 805-816; Op. at 5.
[28] CP 573-576; CP 652-660, 662-663.
[29] CP 669-684; Op. at 5.
[30] CP 601 at ¶¶ 24-25; CP 602 at ¶¶ 26-28; CP 686-693; Op. at 5-6.

Ordinance or underlying decision-making.[31] Following further motion practice, the trial court granted the City's motion for a second protective order and ruled that the Sisleys "shall not be permitted any further discovery, including depositions, regarding or relating to public use and necessity issues without prior court authorization."[32]

2. The Sisleys' subpoenas.

After the discovery orders were issued and just days before the scheduled PUN hearing, the Sisleys issued six (6) subpoenas commanding then-Mayor Murray, an Assistant City Attorney, and four others to testify at the hearing.[33] On the City's motion, the trial court quashed five of the subpoenas and allowed the Sisleys to call Chip Nevins as a witness.[34] The trial court ruled that Mr. Nevins' testimony should be limited to:

> matters within his personal knowledge that strictly relate to the three-part test enunciated in Petition of City of Seattle, 96 WA.2d 616, 625 (1981): (1) whether the use is really public, (2) whether the public interest requires it, and (3) whether the property appropriated is necessary for the purpose.[35]

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[31] CP 573-576; CP 686-693; Op. at 6.

[32] CP 984-988; Op. at 6.

[33] CP 1046-1069; CP 1077-1112; Op. at 6.

[34] CP 1362-1363; Op. at 6.

[35] CP 1363:10-15; Op. at 6.

3. The PUN hearing.

On November 18, 2016, the trial court held an evidentiary hearing on the City's PUN application.[36] The City presented a video excerpt of the City Council's October 5 meeting and vote.[37]

The City also presented live testimony from Mr. Nevins that: (a) the entire Property would be used for a public park; (b) the Property is a flat and vacant lot adjacent to Roosevelt High School; (c) using the Property as a public park will preserve view corridors of that neighborhood landmark; and (d) acquiring the Property will also help satisfy a long-standing and well documented need for additional park and open space in Roosevelt.[38]

4. The trial court's entry of a PUN Decree.

On November 21, 2016, the trial court entered its findings and a PUN Decree.[39] In pertinent part, the trial court found that:

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[36] CP 1364-65; Op. at 6. At the hearing, the Court stated that it would consider the arguments and evidence presented, as well as all pleadings and evidence the parties had filed regarding the PUN motion. RP 8:22-9:9. The Ordinance, Resolution 31347, Mr. Nevins' declarations and prior deposition testimony, the full Committee meeting proceedings and agenda, and the full Council meeting proceedings and agenda were all evidence of record prior to the PUN hearing. CP 66-81; CP 357-360; CP 413; CP 738-852; CP 1027-1030; CP 1034:23-1035:3.

[37] RP 9:16-14:17; Op. at 6.

[38] RP 48:2-50:2; Op. at 6.

[39] CP 1646-1648; Op. at 6-7.

- "There is no evidence that the City will use the property for a private use or to benefit private landowners, that the property will be used for something other than a park or that the entire property is not needed for the planned park."

- "Even if, as alleged by the Sisleys, Ordinance 124880 was partially motivated by ill-will towards the Sisleys, the ordinance cannot be vacated 'so long as the proposed condemnation demonstrates a genuine need and the condemnor in fact intends to use the property for the avowed purpose.' *Cent. Puget Sound Reg'l Transit Authority v. Miller*, 156 Wn.2d 403, 418 (2006). All such conditions have been satisfied in this case."

- "The Sisleys' arguments that other sites in the Roosevelt neighborhood could have been used for a park, and that other neighborhoods in the City were more in need of a park, do not provide a basis for invalidating Ordinance 124880. *Cent. Puget Sound, supra*, 156 Wn.2d at 421 (condemnation need not be the best or only way to accomplish a public goal)."[40]

D. The Court of Appeals Opinion.

The Sisleys appealed to Division I of the Court of Appeals. On appeal, the Sisleys argued that the trial court (1) erred by entering the PUN Decree, primarily because the City was allegedly motivated by "animus" and ill-will against the Sisleys; and (2) abused its discretion when it entered discovery orders limiting the scope of discovery at the PUN stage to issues relevant to the PUN determination.

The Court of Appeals affirmed the trial court. It held that there was no evidence or allegation that the City condemned the property for

[40] CP 1647 at ¶¶ 2-5; Op. at 7.

private use or to block another lawful use, and the facts and circumstances support a genuine need for a public park space in Roosevelt. Op. at 2. As a result, the Court of Appeals found that the Sisleys' allegations of animus do not establish actual or constructive fraud amounting to arbitrary and capricious conduct. *Id.*

The Court of Appeals also held that the trial court properly exercised its discretion to restrict discovery, prior to the PUN hearing, to the contemplated acquisition of the property, including the criteria used for selecting the property and whether the City followed the criteria. Op. at 2 (the "Discovery Ruling").

The Court of Appeals subsequently denied the Sisleys' motion for reconsideration of its Discovery Ruling.

III. ARGUMENT

The Court should deny the Sisleys' Petition for Review because they cannot satisfy any prong of RAP 13.4(b).

A. The Discovery Ruling Is Not A Constitutional Issue.

1. A trial court's management of discovery under CR 26 does not implicate a constitutional question.

The Sisleys argue that the trial court's rulings focusing and limiting discovery at the PUN stage to those issues relevant to a PUN determination are of "constitutional importance." Pet. at 13. While the

Sisleys make no mention of Civil Rule 26, their argument in effect is that any limitation on civil discovery is a constitutional violation.

Thus, the Sisleys frame their argument as "denial of access to discovery." Pet. at 17. But this broad assertion is undermined by the record. *See, e.g.,* n.23 *supra*. The Sisleys' real complaint is that they were "deni[ed] … their right to present the full story of the condemnation to the trial court[.]" Pet. at 17 (emphasis supplied). In short, the Sisleys seek to revisit and resuscitate their "animus" argument in discovery garb even as they do not challenge the substantive law of public use and necessity.

A trial court's management of discovery in accordance with CR 26 is not a constitutional issue—and the authority that the Sisleys selectively quote makes the point. In *Doe v. Puget Sound Blood Ctr.*, 117 Wn.2d 772, 819 P.2d 370, 374 (1991), this Court reviewed a trial court's discovery order that required a blood center to disclose a donor's name. In doing so, the Court focused on the scope of discovery and the analytic framework for review of a discovery order. *Id.* at 117 Wn.2d. at 777 – 83.

In this respect, the Court observed that the "right of access to the courts," i.e., the justice system itself, is founded in constitutional principles. 117 Wn.2d at 780-83. Discovery is a component of the civil justice system, but it is not an independent, constitutional right. Rather, "the right of discovery" is "authorized by the civil rules" and it is "subject to the

limitations therein." *Id.* at 780; *see also Lowy v. PeaceHealth*, 174 Wn.2d 769, 280 P.3d 1078 (2012) (accord); *Putnam v. Wenatchee Valley Medical Ctr., P.S.*, 166 Wn.2d 974, 216 P.3d 374 (2009) (accord).[41]

Trial courts have the discretion to control and limit discovery as set forth in CR 26. Under CR 26(b)(1), parties may only obtain discovery on a matter "not privileged, which is relevant to the subject matter involved in the pending action[.]" CR 26(b)(1). In addition to privilege and relevancy limitations, the trial court "shall" limit discovery if (i) it is "unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;" (ii) the party seeking the discovery has "had ample opportunity by discovery in the action to obtain the information sought;" or (iii) the discovery sought is "unduly burdensome or expensive" taking into account certain factors. CR 26(b)(1)(A)-(C).

The proper scope of discovery is determined by the claims at issue in a given case, the substantive law that governs those claims, and the weighing of other identified interests and burdens. CR 26(b). This is true

[41] None of these cases holds that a trial court's management of discovery and imposition of scope limitations under the applicable substantive law raises a question under the Washington State or United States constitutions. *Cf. Rhinehart v. Seattle Times Co.*, 98 Wn.2d 789, 654 P.2d 673 (1982) (affirming trial court and rejecting defendants' attack on protective order under CR 26(c) as violative of the First Amendment).

in condemnation actions just as it is in civil proceedings regarding different subject matter. CR 26(b); *City of Bellevue v. Pine Forest Properties, Inc.*, 185 Wn.App. 244, 268-69, 340 P.3d 938 (2014) (affirming denial of continuance to conduct discovery because discovery sought would not show determination of necessity was the result of constructive fraud).[42]

In this case, the trial court exercised its discretion under CR 26 to manage discovery and limit the scope to matters relevant to a PUN determination in accordance with the governing substantive law.[43] Doing so does not present a constitutional question under Washington law and the Sisleys cite no authority so holding.

2. The Sisleys' "animus" argument does not implicate a constitutional question.

The Sisleys invoke due process language to assert that the trial court's discovery orders denied them a "meaningful opportunity" to present arguments about the City's alleged animus toward them. Pet. at 16. But as the Court of Appeals correctly held—a holding the Sisleys do

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[42] *See also City of Chicago v. St. John's United Church of Christ*, 935 N.E.2d 1158, 1170-71 (Ill.Ct.App. 2010) (affirming denial of motion to compel discovery of alternate plans for property and city's ability to pay for its acquisition as not relevant to the court's public use and necessity determination in condemnation proceeding).

[43] CP 414-430; CP 575-596; CP 986-988; CP 1113-1124; Op. at 13-15.

not challenge—any alleged improper motivation for condemnation of the Property cannot constitute fraud or arbitrary and capricious conduct where the City has shown a documented need for a public park and the Property will be used for that park. Op. at 10-12 (citing cases).

That the Sisleys may disagree with this law does not mean they were denied due process where the trial court focused and limited the scope of discovery to matters relevant to its PUN determination. Moreover, as the record reflects, the Sisleys had ample opportunity to and did present their "animus" argument on multiple occasions. *See, e.g.,* CP 104-114; CP 201-215; CP 863-877, CP 1180-1200; CP 1638-1645.

The authority the Sisleys cite is entirely inapposite.[44] Pet. at 16. These cases have no bearing on the trial court's discovery rulings. The Sisleys' reliance on authority so far afield only emphasizes the lack of support for their argument that the trial court's management of discovery deprived them of a meaningful opportunity to be heard.

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[44] *Crane v. Kentucky*, 476 U.S. 683 (1986) (exclusion of evidence regarding circumstances of a criminal confession violated defendant's constitutional right to fair trial); *State ex rel. Puget Sound Nav. Co. v. Dep't of Transp. of Wash.*, 33 Wn.2d 448, 206 P.2d 456 (1949) (denial of due process where Department of Transportation set rate for common carrier without permitting opportunity to introduce evidence regarding increased operating expenses); *Robles v. Dep't of Labor & Indus. of the State of Wash.*, 48 Wn.App. 490, 739 P.2d 727 (1987) (denial of due process where board considered medical and traffic treatises not in the record to support conclusion regarding a victim's credibility).

B. The Discovery Ruling Does Not Involve an Issue of Substantial Public Interest.

Notwithstanding the Petition for Review's adorning citation of a letter penned by James Madison (Pet. at 17), the Discovery Ruling does not involve a substantial public interest. The Discovery Ruling affirms the trial court's exercise of discretion under CR 26 based on the facts of this case, its procedural posture, and the specific discovery requests propounded by the Sisleys. That trial courts will make discovery rulings in future condemnation actions does not automatically create an issue of substantial public interest.

In support of their assertion of public interest, the Sisleys offer citations and parentheticals with appealing rhetoric. Pet. at 18. But again, the referenced cases are inapposite. *See, e.g., Progressive Animal Welfare Soc. v. Univ. of Washington*, 125 Wn.2d 243, 884 P.2d 592 (1994) (affirming summary judgment ruling on Public Records Act claim); *Metro. Park Dist. of Tacoma v. State, Dep't of Nat. Res.*, 85 Wn.2d 821, 539 P.2d 854 (1975) (affirming trial court's holding that the State is equitably estopped from cancelling a use deed).

For the three cited cases in which review was granted under RAP 13.4(b)(4), the underlying rulings impacted important substantive rights of a significant cross-section of the public. Those cases involved,

respectively: (1) the sentencing of criminal drug offender defendants, (2) standards for terminating the parental rights to an Indian child, and (3) application of the extension of judgments statute as it impacts a debtor's substantive right to cessation of a judgment lien.[45] The Discovery Ruling concerns no such analogous right.[46]

There is no issue of constitutional significance or public interest that warrants further review of the Discovery Ruling by this Court, and the Court should therefore deny the Petition. *In re Dependency of P.H.V.S.*, 184 Wn.2d 1017, 389 P.3d 460 (2015).

C. The Court Should Disregard the Sisleys' Discussion of Matters Outside the Record.

Finally, the Court should disregard the Sisleys' discussion of Public Records Act requests, documents obtained through those requests, and related litigation (Pet. at 11-13, 15), because those purported facts are not in the record. RAP 13.4(c); RAP 10.3(a)(5); *Sherry v. Financial Indem. Co.*, 160 Wn.2d 611, 615 n. 1, 160 P.3d 31 (2007) ("We also

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[45] Pet. at 18 (citing *State v. Watson*, 155 Wn.2d 574, 122 P.3d 903 (2005); *In re Adoption of T.A.W.*, 184 Wn.2d 1040, 387 P.3d 636 (2016); and *Sessom v. Mentor*, 155 Wn.App. 191, 229 P.3d 843 (2010)).

[46] In tacit recognition of the lack of supporting authority, the Sisleys offer a list of "admittedly extreme" hypothetical condemnations. Pet. at 19. The Discovery Ruling does not address those hypotheticals, nor would the decision below create precedent that would compel any particular resolution of hypothetical challenges that raised some or all of those facts.

decline to consider facts recited in the briefs but not supported by the record.").[47] The Court should also disregard documents that are not part of the record, but which the Sisleys have included in their appendix in violation of RAP 10.3(a)(8), RAP 13.4(c)(9), and RAP 13.4(e).

IV. CONCLUSION

The Discovery Ruling does not raise a question of constitutional law nor does it involve an issue of substantial public interest. As set forth above, the Sisleys have failed to satisfy any element of RAP 13.4(b) and the Court should deny review.

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[47] The Sisleys' discussion of Public Records Act requests is misleading, but it is also irrelevant and thus the City does not address it here. If the records received by the Sisleys are relevant to a disputed issue and placed before a court in a future proceeding, the City will correct any mischaracterization of those records and seek such other relief as may be appropriate.

DATED: May 16, 2018.

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CERTIFICATE OF SERVICE

I hereby declare under penalty of perjury under the laws of the State of Washington that on this date, I caused a true and correct copy of the foregoing document to be served on the following in the manner(s) indicated:

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DATED this 16th day of May, 2018 at Seattle, Washington.

Gabriella Sanders

Gabriella Sanders

SAVITT BRUCE & WILLEY LLP

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