

VIRGINIA :

IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

CHARLOTTESVILLE PARKING )  
CENTER, INC. )  
 )  
Petitioner, )  
v. )  
 )  
WATER STREET PARKING GARAGE )  
CONDOMINIUM ASSOCIATION, et al., )  
 )  
Respondents. )

Case No. CL16-243

**CPC’S RESPONSE TO THE CITY’S NOTICE OF MOTION AND HEARING**

COMES NOW, the petitioner, Charlottesville Parking Center, Inc. (“CPC”), by counsel, and responds as follows to the Notice and Motion of Hearing emailed to judge’s chambers this same day, June 14, 2016:

1. On June 7, 2016, CPC filed the instant petition seeking the appointment of a special receiver pursuant to Virginia Code § 8.01-582 to manage the affairs of the Water Street Parking Garage Condominium Association (“WSPGCA”).

2. An emergency hearing was requested pursuant to Virginia Code § 8.01-592. Code § 8.01-592 provides that a receiver may be appointed on an emergency basis with sufficient surety. This section expressly provides that notice of an emergency hearing is not required, provided that a due process hearing is conducted within thirty (30) days as outlined in Code § 8.01-593.

3. This Court has provided CPC with its earliest available date for an emergency hearing, June 22, 2016.

4. Notwithstanding the fact that notice is not required for a hearing on the appointment of an emergency receiver under Virginia Code § 8.01-592, counsel for CPC provided notice of the June 22, 2016 emergency hearing as a courtesy.

5. On June 14, 2016, CPC's counsel understands that counsel for the City contacted chambers and represented that the parties had mutually agreed to reschedule the emergency hearing. CPC, in fact, expressly refused to remove its hearing from the Court's docket, and the City's contrary representations to the Court were factually inaccurate.

6. The City's counsel has also represented to the Court via email that he spoke with Ty Grisham, the Water Street Parking Garage Condominium Association's ("WSPGCA") counsel, and that Mr. Grisham "has no objection . . . to changing the hearing date from June 22." *See Exhibit A.* According to Mr. Grisham, he never agreed to move the June 22, 2016 hearing or stated that he had no objection to moving the hearing.

7. In opposing CPC's efforts to secure a hearing on the appointment of an emergency receiver, the City asserts that CPC violated Rule 4:15 as it relates to regular motions practice. This reliance is misplaced, because Rule 4:15 of the rules of court is simply not applicable to this proceeding; and even if it was, the General Assembly has expressly provided that notice is not required under these circumstances. Va. Code Ann. § 8.01-592.

8. In its Notice of Motion and Hearing, the City also suggests that CPC is not entitled to a hearing pursuant to Virginia Code § 8.01-592 by attacking the underlying merits of CPC's motion. These arguments put the cart before the horse: CPC is permitted by statute to seek the appointment of an emergency receiver on an interim basis, and Title 8.01, Chapter 22 clearly delineates a procedure for the City to raise its contentions in opposition. The City cannot defeat CPC's request for a hearing merely by stating its position that CPC's motion lacks merit.

9. CPC strongly disagrees with the City's characterization (without any evidence) of the pertinent facts related to its motion, but will refrain from engaging in a tit-for-tat with the City's counsel as to each of these premature contentions, with these exceptions:

- a. The Water Street Parking Garage Condominium Association ("WSPGCA") has not, as the City contends, "agreed on the budgeted expenses for 2016." Quite the contrary, the WSPGCA has, despite considerable efforts, failed entirely to adopt a budget.
- b. CPC has gratuitously acted to protect the welfare of the Water Street Parking Garage for several months, notwithstanding the failure of the WSPGCA to authorize rates or expenses for the operation of the garage. CPC's contract expires on June 30, 2016, and CPC is rightfully concerned that the WSPGCA Board is incapable of ensuring the continued operation of the Water Street Garage.

10. CPC is permitted an opportunity to be heard on its request for appointment of an emergency receiver, without notice to the City; and we ask that this matter remain on the docket for June 22, 2016.

WHEREFORE, the petitioner, Charlottesville Parking Center, Inc., prays that this Court, pursuant to Virginia Code § 8.01-582 and -592, retain the previously-scheduled June 22, 2016 hearing date on its docket, and for such further relief as this Court deems just and proper.

Respectfully submitted,

CHARLOTTESVILLE PARKING CENTER, INC.

By:   
Counsel

Christopher M. Malone (VSB No. 18678)  
William D. Prince, IV (VSB No. 77209)  
Michael G. Matheson (VSB No. 82391)  
*ThompsonMcMullan P.C.*  
100 Shockoe Slip, 3rd Floor  
Richmond, Virginia 23219  
Tel.: (804) 649-7545  
Fax: (804) 780-1813  
[cmalone@t-mlaw.com](mailto:cmalone@t-mlaw.com)  
[wprince@t-mlaw.com](mailto:wprince@t-mlaw.com)  
[mmatheson@t-mlaw.com](mailto:mmatheson@t-mlaw.com)

*Counsel for Charlottesville Parking Center, Inc.*

**CERTIFICATE OF SERVICE**

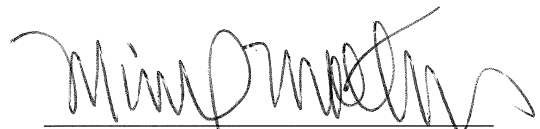
I hereby certify that a copy of the foregoing was delivered to the following counsel of record via email this 14th day of June 2016:

Thomas M. Wolf (VSB No. 18234)  
John "Jack" M. Robb III (VSB No. 73365)  
Olaoluwaposi ("Posi") O. Oshinowo (VSB No. 84992)  
LeClairRyan, P.C.  
919 East Main Street, 24th Floor  
Richmond, Virginia 23219  
Tel.: (804) 916-7143  
Fac.: (804) 916-7243  
[thomas.wolf@leclairryan.com](mailto:thomas.wolf@leclairryan.com)  
[jack.robb@leclairryan.com](mailto:jack.robb@leclairryan.com)  
[posi.oshinowo@leclairryan.com](mailto:posi.oshinowo@leclairryan.com)

*Counsel for the City of Charlottesville*

J. Tyler Grisham, Esq.  
Grisham & Barnhardt  
414 East Main Street, Suite D  
Charlottesville, Virginia 22903  
[jtg@grisham-barnhardt.com](mailto:jtg@grisham-barnhardt.com)

*Counsel for the Water Street Parking Garage  
Condominium Association*

  
\_\_\_\_\_  
Michael G. Matheson

## Matheson, Michael

---

**From:** Bausserman, Esther <baussermane@charlottesville.org>  
**Sent:** Tuesday, June 14, 2016 4:22 PM  
**To:** 'Wolf, Thomas M.'  
**Cc:** Seay, Jaci; Malone, Christopher; Matheson, Michael; 'jtg@grisham-barnhardt.com'; Prince, Will; Oshinowo, Olaoluwaposi O.; Robb, John "Jack" M. III; Brown, Craig  
**Subject:** RE: CPC, Inc. v. Water Street Parking Garage Condominium Association, et al. (Case No.: CL16-243)

The matter has been set for a hearing on 6/15/16 at 4:30 p.m.

Esther Bausserman  
Administrative Assistant  
Judge's Office  
Charlottesville Circuit Court  
434-970-3760  
[baussermane@charlottesville.org](mailto:baussermane@charlottesville.org)

---

**From:** Wolf, Thomas M. [<mailto:Thomas.Wolf@leclairryan.com>]  
**Sent:** Tuesday, June 14, 2016 4:04 PM  
**To:** Bausserman, Esther  
**Cc:** Seay, Jaci; Malone, Christopher; Matheson, Michael; 'jtg@grisham-barnhardt.com'; 'Prince, Will'; Oshinowo, Olaoluwaposi O.; Robb, John "Jack" M. III; Brown, Craig  
**Subject:** RE: CPC, Inc. v. Water Street Parking Garage Condominium Association, et al. (Case No.: CL16-243)

Dear Esther,

Further to our recent telephone conversation, the City and CPC are available for a hearing at 4:30 pm tomorrow on the City's motion to change the date of the hearing now set for June 22. I have spoken with Mr. Grisham, counsel for Water Street Parking Garage Condominium Association, and he has no objection to the hearing tomorrow or to changing the hearing date from June 22. I will send a Notice of Hearing by email this afternoon.

Thank you for your assistance.

Sincerely yours,

Tom

**Thomas M. Wolf**  
**Attorney at Law**

LECLAIRRYAN

919 East Main Street, Twenty-Fourth Floor

Richmond, Virginia 23219

(804) 916-7143 Direct

(804) 916-7243 Fax

(804) 714-7420 Mobile

[Thomas.Wolf@leclairryan.com](mailto:Thomas.Wolf@leclairryan.com)

<https://www.leclairryan.com>

\*\*\* Please note our new address listed above. Our telephone and fax numbers remain the same. \*\*\*

Please consider the environment before printing this email.

---

**From:** Prince, Will [<mailto:wprince@t-mlaw.com>]  
**Sent:** Tuesday, June 14, 2016 3:50 PM  
**To:** Wolf, Thomas M.; Oshinowo, Olaoluwaposi O.; Robb, John "Jack" M. III  
**Cc:** Seay, Jaci; Malone, Christopher; Matheson, Michael; 'jtg@grisham-barnhardt.com'  
**Subject:** CPC, Inc. v. Water Street Parking Garage Condominium Association, et al. (Case No.: CL16-243)

Tom,

We are available tomorrow afternoon at 4:30pm. Please copy me on your email to the court confirming the date/time.

Will

William D. Prince IV, Esq.

*ThompsonMcMullan, P.C.*

P 804.698.6254 | F 804.780.1813

[wprince@t-mlaw.com](mailto:wprince@t-mlaw.com) | [t-mlaw.com](http://t-mlaw.com)

[Twitter](#) | [LinkedIn](#) | [Facebook](#)

100 Shockoe Slip | 3rd Floor | Richmond, Virginia 23219

MERITAS LAW FIRMS WORLDWIDE

**Confidentiality Notice** — *This message and any files attached to it may contain confidential information protected by the attorney-client privilege and/or the work product doctrine. The information is only for the use of the individual to whom the sender intended to send the information. If you are not such individual, any disclosure, copying, distribution, or reliance upon this email is prohibited. If you received this email in error, please reply to notify the sender, and please delete your copy. Thank you.*

\* This e-mail may contain confidential or privileged information. If you are not the intended recipient, please notify the sender immediately by return e-mail with a copy to [emailadministrator@leclairryan.com](mailto:emailadministrator@leclairryan.com) and delete this e-mail and all copies and attachments.