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June 18, 2024

City and Borough of Sitka  
Municipal Clerk  
100 Lincoln Street Suite 306  
Sitka, AK 99835

Re: Initiative Petition

Thank you for your consideration of the initiative petition submitted by Klaudia Leccese. My office has provided significant input on the proposed ordinance. Consistent with the spirit of the initiative process, I have largely deferred to the sponsors, while assisting with legislative drafting conventions and advice to avoid unenforceable or confusing requirements. This version does address prior alleged infirmities in an earlier petition. It does so not by simply making edits, but by creating an entire regulatory scheme, such as including an entirely new section detailing data collection and reporting requirements. This petition contains critical substantive differences, including an increase in the annual number of persons ashore, and an increase in the size of smaller vessels excepted from regulation from vessels capable of carrying 100 passengers to vessels capable of carrying 250 people.

My client is prepared to challenge a denial of the petition. Obviously, that is a risk with any such decision; we trust that you consider the likelihood of such challenges. I point it out here for two reasons.

First, supporters have organized Small Town SOUL, a nonprofit corporation. They are working hard at organizing and fund raising. They are aware of the potential cost of litigation and know that it may be necessary. On a related note, to the extent there is an industry challenge, SOUL may be able to lend support. My office has researched the constitutional issues raised by those opposed to cruise ship regulation, such as Mr. Hurst of International Maritime Group. Of course, municipal review of constitutional issues is sharply limited at the initiative application phase. I would, however, be glad to discuss and possibly share our research.

The second reason I bring up a potential appeal is to suggest a cooperative approach if you feel it is warranted. I note with interest the Sitka General Code at §2.80.040 A. It provides, "The assembly may direct the municipal attorney to assist in the wording of the petition." That section is unique to Sitka. It is deliberate and wise. In a statutory and constitutional system which is to be liberally construed in favor of the power of the people to initiate legislation, such assistance makes sense. The code implements the legal mandate which could colloquially be described as a

City and Borough of Sitka  
Municipal Clerk  
June 18, 2024  
Page 2 of 2

requirement to “get to yes” when possible. You could work directly with me. Such cooperation is likely time and money better spent than on expedited litigation.

Last, I have recently reviewed Mr. Leach’s comments made at an April 18 budget meeting. In discussing initiatives which would limit cruise ship visitation or tourism, Mr. Leach stated his “firm belief that that the *consideration* of any such initiative would almost inevitably lead to complex and costly legal challenges.” He goes on to suggest that many “beloved programs” might need to be cut. Certainly, he cannot be intimating that potential litigation is an appropriation. That would be novel, at best. We’re hopeful that financial concerns over future litigation do not play a role in the clerk’s decision. Suggesting that “beloved programs” needs to be cut seems campaigning that should, at the very least, be delayed until an initiative is on the ballot.

Sincerely,

MUNSON, CACCIOLA & SEVERIN, LLP



Sam Severin  
Attorney at Law