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July 24, 2016

Cathie Garber
Office of the Clark County Auditor – Elections Division
1408 Franklin St
Vancouver, WA 98660

Re: Referendum on Ordinance 2016-06-12

Dear Cathie,

Thank you for all your assistance in the Elections Division. You have always been informative, transparent, fair and helpful in all our interactions.

As you may know, my county has decided to sue me because I exercised my right to petition my government for a redress of grievances.

Three county councilors and an unknown number of staff and/or staff attorneys take the position that this ordinance is not subject to referendums under our charter. I read our charter differently than they do, however, to be intellectually honest I must admit that the point is indeed debatable. The outcome of that debate would likely be based upon whether one is to follow the exact language of a poorly written charter, or instead attribute intent to those who wrote it poorly and act upon that perceived intent.

For example, as you know there are contradictory deadlines in the referendum process of our charter. The petitioner has a deadline to submit a final form, which requires some information from the prosecutor's office. However, the deadline for the prosecutor to provide the information is *after* the petitioner's deadline which requires it. I imagine two reasonable people could debate the true intent of the authors.

As you also know, this is only the second referendum ever filed under our new charter. In such a new system (one that is not yet fully rigged), the likelihood for bona fide error on the part of either the citizen or the Auditor is high, as is the likelihood of a need for court interpretation from time to time. I'm unsure why my county had to sue this citizen in order to make their assertion. Further, taxpayers pay for those hordes of county attorneys to deal with the fallout of their poorly written legislation or regulations. But apparently they want to make an example out of me so citizens will know to think twice before exercising their rights. You know, there once was a day in 'merica where a person would give someone a phone call before hauling off and suing them. I guess filing lawsuits is easier when folks have a multitude of attorneys on staff looking for something to do and a political axe to grind.

My own representative government is suing me for exercising the very power they have provided under our charter.

While I do not concede to the assertions of the county's lawsuit, it is obvious my county is using the judicial branch to exact upon me tactics designed to bully and intimidate. Imagine a citizen simply turning in a petition and thereby subjecting himself to litigious elected officials who are willing and able – as a tactic -- to

effortlessly run up hundreds or thousands of billable hours, and threaten the citizen with the bill. One may have the right to petition one's government for a redress of grievances, but woe to those in Clark County who try to exercise that right!

The effect is chilling.

Well you can please tell my county "job well done" – their intimidation and bullying tactics have succeeded. I am far more concerned about their political retribution upon me than I am to seek an official court opinion on our individual conceptions of our charter.

Therefore, effective immediately, I hereby withdraw my referendum petition for ordinance 2016-06-12.

However, the Auditor's office should know how aware I am of the county's villainy and our prosecutor's willingness to collaborate with it.

Word had leaked that the county was going to proceed against me for attorney's fees under something called CR11 (Court Rule 11). This was strange because this is a court rule that only applies to pleadings filed in court cases. Since I have filed no court case and therefore have filed no court pleadings, I was dumbfounded as to how they would try to do such a thing.

After the county served me with their summons and complaint, I noticed that they were seeking damages for attorney's fees under statute RCW 4.24.350, and not under CR11.

Yet while the county accuses me of intentionally ignoring their alleged inapplicability of the referendum because "even a cursory review" would conclude in their favor, the statute they are bullying me with only applies to "actions for damages".

Even a "cursory review" of the statute betrays the fact that their claim the statute applies to a citizen filing a referendum is the real frivolous action. Consider this:

- 1- I have no court action at all, and certainly not one for damages.
- 2- The county however DID file a court action, and it is an action for damages, and they justified it with a statute that any first year law-student knows doesn't apply because there is no action for damages on my part.

It would appear to me, that the statute applies to THEM, not me. Fortunately for them, I have not expended any attorney fees with which to return their tactics of bullying and intimidation. Unfortunately, even if I had they wouldn't care because it would be my fellow-citizen taxpayers who would have to pay the bill, not they themselves.

It's interesting to consider the original chatter about the county claiming damages under Court Rule 11. Remember CR11, the one that only applies to the filing of court papers in a court case? The county served me with a summons and complaint, alleging damages for something they could not enforce. Why? Could it be that the summons and complaint requires me to file an "answer" with the court (a court pleading), and once I do that then they could allege damages under Court Rule 11 (which would then at least be something having actual jurisdiction) and set the false statute based claim aside in favor of their newly created claim under CR11?

Occam's Razor suggests the county and the prosecutor implemented a strategy designed to goad me into filing pleadings which would get their nose under the "kill him with attorney fees" tent via CR11.

The county would be well served to look into Federal Title USC 18 Section 241, which states in part:

“If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same;

...They shall be fined under this title or imprisoned not more than ten years, or both.”

I believe that three councilors, unknown staff and attorneys have “conspired to injure, oppress, threaten [AND] intimidate” my “free exercise [AND] enjoyment of” my right to petition my government for a redress of grievances, which is a “right or privilege secured to[ME] by the Constitution [AND] laws of the United States” and have done so “because of [MY] having so exercised the same”.

I also believe this behavior is a text book definition of some of the worst forms of “prosecutorial abuse”, no doubt why Title 18 Section 241 exists.

I suggest the prosecutor’s office give this federal law a “cursory review”.

Please withdraw my referendum immediately and inform the interested parties.

Sincerely,



Christian Berrigan, former Citizen, now Subject.