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Sent: Friday, April 20, 2012 11:32 AM  
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Subject: Sitkans for Responsible Gov v CBS

Sitkans for Responsible Government v. CBS was issued today by the AK Supreme Ct. This decision reversed the Sitka Superior Ct. decision that had rejected the initiative/referendum related to Sawmill Cove Industrial Park (SMCIP) sales/leases of property above a certain value being subject to voter approval. The Sitka Superior Ct. decision involved technical issues: (1) the wording of the initiative/referendum was confusing & misleading; and (2) the procedure of an automatic vote violated state & local laws and Sitka Charter requiring a certain number of voter signatures before a proposed initiative/referendum goes on the ballot. The Sitka Superior Ct. did not address a number of issues that relate to the merits of the case that were raised by Sitka, since it rejected the initiative/referendum on other grounds.

Regarding the initiative/referendum language, the AK Supreme Ct. only required minimum standards of accuracy and fairness, finding the SMCIP wording less confusing and misleading than other initiatives/referendums it had reviewed. It also found SGC does not have the more detailed requirements of other municipalities concerning initiatives/referendums, and therefore refused to impose those standards by analogy.

Regarding the automatic vote, the AK Supreme Ct. recognized the existing conflict between Sitka Charter and SGC created by this initiative/referendum. However, it pointed out that existing SGC provisions allow a vote on property sales/leases of a certain value for other than SMCIP property, while the Charter requires a certain number of signatures to approve any initiative or referendum before it goes to the voters. The AK Supreme Ct. simply informed Sitka to take care of this conflict by amending the Charter or its existing SGC, also recognizing that these current SGC provisions are not before the AK Supreme Ct. in this appeal.

The AK Supreme Ct. decision only addressed the technical issues of the case, since these were the only issues decided by the Sitka Superior Ct. Thus, the AK Supreme Ct. is simply sending the case back to the Sitka

Superior Ct. to decide the rest of the issues. This does not require additional briefing, but just the Sitka Superior Ct. issuing a decision on the remaining issues.

One of those remaining issues concerned impermissible appropriations. The AK Supreme Ct. issued a decision on April 6, 2012 in *Alliance of Concerned Taxpayers, Inc. v. Kenai Peninsula Borough*. In that decision involving a 2005 initiative, the Court held that the initiative that allowed voter to veto any capital project over \$1 million violated the Assembly's exclusive control over the budget, and was therefore an impermissible appropriation by initiative under AS 29.26.100 and AK Constitution at Art. XI, § 7. Sitka made the same argument in its case, since impermissible appropriations concern municipal assets that includes money, real property, personal property, etc. At this point, Sitka intends to file a notice with the Sitka Superior Ct. regarding this April 6th AK Supreme Ct. decision, and that it should resolve the current case in favor of Sitka.