

**MIKE LITMAN & JEFF FARVOUR LAWSUIT AGAINST  
CITY AND BOROUGH OF SITKA & SITKA MUNICIPAL CLERK**

Sitka Assembly has requested me as Municipal Attorney to meet with the media and explain for the public Sitka's position regarding the initiative lawsuit about Sawmill Cove Industrial Park property in which Mike Litman and Jeff Farvour are suing City and Borough of Sitka and its Municipal Clerk. Sitkans for Responsible Gov (SRG) was dismissed early on by the Court as a non-legal entity, not able to bring any lawsuit.

The right to bring a lawsuit protesting the rejection of a municipal initiative is not a constitutional right. This is clear from recent Alaska Supreme Court decisions, which also explain that there are restrictions on the types of matters that can be addressed in an initiative. Further, someone bringing a lawsuit about a municipal initiative does not qualify as a public interest litigant. This means that if they win, they are only entitled to a small portion rather than all of their attorney fees, and even more significant, can be liable for the municipality's attorney fees.

Sitka and all of the other Alaska municipalities also have a major stake in these types of initiative lawsuits. Communities throughout Alaska have faced or are facing similar types of initiatives in which some citizens try to restrict their local government from spending money or using municipal resources such as land on projects by requiring a public vote first. A recent Alaska Supreme Court decision has confirmed that such initiatives are unlawful in holding the Kenai Peninsula Borough properly rejected a initiative that required a public vote before undertaking any construction project over \$1 million.

Sitka Assembly is following that recent Alaska Supreme Court decision in regards to the present lawsuit. It is difficult for these unpaid volunteer Assembly members to face criticism from friends, relatives, and constituents, and often misstatements that appear in letters to the editor, media articles, and public comments at Assembly meetings about how they are restricting alleged citizen rights. The issues in this case are complicated, but in major part boil down to the tension between direct and representative democracy. Direct democracy is the peoples' right to bring an initiative and vote on all the issues. Representative democracy is vesting the authority in representatives who are elected to make the difficult decisions because the voters have determined that they are the individuals best positioned for that purpose. The Assembly is required to follow the law, and make the hard decisions that can result in additional taxes or fees, rejecting popular endorsed projects because of limited funds, or deciding how best to use and dispose of its municipal property. That is what is occurring in this lawsuit.