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Chief Deputy

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Chief Civil Deputy

SHARI JENSEN
Administrator

MEMORANDUM

DATE:	August 10, 2016
TO:	County Councilors, Mark McCauley
FROM:	Christopher Horne, Chief Civil Deputy
SUBJECT:	Declaratory Judgment to determine validity of GMA referendum petition

On August 5th 2016, the declaratory judgment action filed by Clark County was finalized. To understand the court's ruling it is helpful to review the history of the lawsuit. On June 28th 2016, nearly three years of planning effort culminated in the adoption of Ordinance 2016-06-12. Within ten days Christian Berrigan presented the Auditor with a petition to suspend Clark County's Growth Management ("GMA") ordinance, Ord No. 2016-06-12. Once the necessary signatures were verified, the Charter required the suspension of the GMA ordinance preventing the county from processing or even receiving development applications

County sought review of the Referendum Petition in the Clark County Superior Court by way of declaratory judgment. Clark County asked the Court to declare the Referendum Petition contrary to the Clark County Charter and the limitations imposed by the Court and, therefore, invalid. On August 5, 2016, the Superior Court, per the honorable Judge David Gregerson, concluded that Ord 2016-06-12 was an ordinance required by state law, here GMA. Because the legislature required compliance by county legislative bodies, referendum was not available. The county charter also disallowed referenda where the ordinance was required by state law.

Once the Court concluded that the Referendum Petition was inconsistent with state law and the Clark County Charter, Section 7.4 A, the Court found it to be invalid. Because the Referendum Petition was invalid, it no longer had any suspension effect upon Clark County Ordinance 2016-06-12. Therefore, Clark County is now legally able to accept development applications for all land use developments based on comprehensive plan changes approved by the 2016 Ordinance.

I trust that this information will be of assistance

Ch/tk

Schroader, Kathy

From: Wiser, Sonja
Sent: Thursday, August 11, 2016 11:17 AM
To: Schroader, Kathy
Subject: FW: Referendum Memo-Finding Conclusions.docx
Attachments: Referendum Memo-Finding Conclusions.docx

For after the record

-----Original Message-----

From: Orjiako, Oliver
Sent: Thursday, August 11, 2016 8:24 AM
To: Albrecht, Gary, Alvarez, Jose; Anderson, Colete, Euler, Gordon; Hermen, Matt, Kamp, Jacqueline, Lebowsky, Laurie, Lumbantobing, Sharon, Orjiako, Oliver; Schroader, Kathy, Wiser, Sonja
Subject: Referendum Memo-Finding Conclusions.docx

All

In case you get questions. Thanks