

*Bernadette M. Wilson
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Anchorage, AK 99516*

December 14, 2015

Barbara A. Jones, Municipal Clerk
Amanda K. Moser, Deputy Clerk
Office of the Municipal Clerk
Municipality of Anchorage
PO Box 196650
Anchorage, AK 99519-6650

Dear Ms. Jones and Ms. Moser:

I am writing in response to your letter of Dec. 11, 2015, in which you state that our proposed language for a referendum petition on Anchorage Ordinance 2015-96 is “legally insufficient.”

By way of reference, the language we proposed is as follows:

“Shall AO No. 2015-96 (S-1) (as amended), an ordinance adding sexual orientation and gender identity to Title 5 of the Anchorage Municipal Code, remain law?”

In your letter, you quote the Municipal Attorney as stating that the “proposed petition language is legally insufficient for its failure to completely describe the scope and effect of AO 96(S-1)... that it seeks to repeal.”

The language of our proposed referendum petition on AO 96 is virtually identical in form to the referendum language regarding AO 37 that appeared on the Nov. 4, 2014 election ballot:

“Shall AO No. 2013-37 (S-2) (as amended), an ordinance amending Anchorage Municipal Code chapter 3.70, Employee Relations, remain law?”

I will note that AO 37 was some 30 pages long and dealt with numerous complex changes to municipal law concerning collective bargaining and other labor issues. Yet the words “...an ordinance amending Anchorage Municipal Code chapter 3.70, Employee Relations” were deemed to be legally sufficient for describing the measure placed before voters.

I believe that the language we submitted on AO 96 is actually *more* descriptive of the substance of the ordinance than what was approved for the AO 37 referendum. In our language, we fairly and neutrally use language quoted directly from the ordinance to

describe its main impact: it adds “sexual orientation” and “gender identity” to the provisions of Title 5.

I would further note that, unlike the issues at stake in AO 37, the matter of adding “sexual orientation” and “gender identity” to Title 5 has been a perennial issue in Anchorage politics for decades. Indeed, just three years ago voters considered a ballot measure (Proposition 5 – 2012) that is virtually identical in substance to what was passed by the Assembly in AO 96. Proposition 5 was rejected by voters, with 57 percent of voters rejecting the measure.

I contend that the language proposed by the Municipal Attorney merely lards up the proposed petition with cumbersome, bureaucratic text. The suggested wording actually tends to obscure, rather than clarify, the main thrust of what AO 96 does. The words that most accurately describe the substance of AO 96 – adding “sexual orientation” and “gender identity” to Title 5 – are now buried in a proposed 75-word paragraph, which replaces our concise, 19-word statement.

The proposed language from the Municipal Attorney is also biased and promotes confusion by fundamentally changing the nature of the question placed before voters.

Our application specifies that the question shall be, “Shall AO No. 2015-96(S-1) (as amended)... **remain law?**” Thus, voters would select “yes” if they approve of AO 96 and wish to retain it as law. Voters would select “no” if they disapprove of AO 96 and wish to rescind the law.

The Municipal Attorney’s language turns this upside down by proposing: “Shall AO No. 2015-96(S-1) (as amended)... **be repealed?**” Thus, you would be required to vote YES on the referendum if you OPPOSE AO 96, and vote NO if you SUPPORT AO 96. This is counter-intuitive and promotes confusion, rather than clarity, among voters.

The public process is best served by employing the same wording that was used with the AO 37 referendum: “Shall (name/description of ordinance) remain law?”

I believe the alternate language for our referendum petition proposed by the Municipal Clerk and Municipal Attorney is unjustified, confusing, and biased. In the event that litigation is necessary to resolve our differences, I hereby specifically reserve the right to dispute any and all language contained in the proposed revision.

Nevertheless, in the interest of avoiding a protracted dispute and allowing Anchorage voters the opportunity to weigh in on the merits of AO 96, I would propose the following compromise language that our group could tolerate.

Our proposed compromise would make two changes to the alternate language proposed by the Municipal Attorney, as reflected below:

Shall AO No. 2015-96(S-1) (as amended), which amended the Equal Rights Title of the Anchorage Municipal Code (Title 5) to prohibit discrimination within the Municipality on the bases of sexual orientation or gender identity in the sale, rental or use of real property, financing, employment, places of public accommodations, educational institutions, and practices of the municipality; to codify certain religious and other exemptions; and to expand the lawyer's role in fact-finding conferences before the Anchorage Equal Rights Commission, ~~be repealed~~ **remain law?**

A "yes" vote is a vote **to keep the ordinance in place**. A "no" vote is a vote **to repeal the ordinance**.

The first change ("of") is simply to include the missing preposition in the Municipal Attorney's draft language. It reads better this way.

The second change is to strike the words "be repealed" at the end of the proposed referendum and replace with "remain law."

We accept at face value the declaration by the Municipal Attorney that the alleged deficiencies in our referendum petition "can be cured." Since the only specified deficiency in the petition language was the alleged "failure to completely describe the scope and effect of AO 96," then we have reason to expect that, by the very standards set out by the Municipal Attorney, the alternative language we suggest above should be promptly approved.

I look forward to your response.

Sincerely,

Bernadette M. Wilson