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JUDGE JOAN E. DUBUQUE
DEPARTMENT 27

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

CITY OF SEATTLE, A Washington municipal
corporation,

Plaintiff,

vs.

SEATTLE CITIZENS AGAINST THE
TUNNEL; ELIZABETH A. CAMPBELL, in
her capacity as Seattle Citizens Against the
Tunnel's Campaign Manager and the principal
initiative petitioner; WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION.

Defendants.

No. 11-2-13620-5SEA

) ORDER DENYING DEFENDANT
) ELIZABETH CAMPBELL'S MOTION TO
) STRIKE; DENYING DEFENDANT
) WASHINGTON STATE DEPARTMENT
) OF TRANSPORTATION'S REQUEST FOR
) ATTORNEYS FEES; AND GRANTING
) PLAINTIFF CITY OF SEATTLE'S
) MOTION FOR SUMMARY JUDGMENT
) AND DECLARATORY RELIEF

) (CLERK'S ACTION REQUIRED)

THIS COURT, having considered the following documents:

From Plaintiff City of Seattle ("City"):

- City's Complaint for Declaratory Judgment;
- City's Motion for Summary Judgment;
- Declaration of Carol Shenk with attachments re Motion to Summary Judgment;
- City's Opposition to Motion to Strike;
- City's Reply in support of Motion for Summary Judgment;

ORDER GRANTING SUMMARY JUDGMENT AND DECLARATORY
RELIEF - 1

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- 1 • Declaration of Carol Shenk (7/13/2011) with attachments re Reply in support of Motion
2 for Summary Judgment;

3 From Washington State Department of Transportation ('State'):

- 4 • State's Answer, Counterclaim, and Cross Claims;
5 • State's Response to Motion to Dismiss;
6 • Declaration of Bryce Brown with attachments re Response to Motion to Dismiss;
7 • State's Response to Motion for Summary Judgment;
8 • Declaration of Ronald Paananen with attachments re Response to Motion for Summary
9 Judgment;
10 • Declaration of Bryce Brown with attachments re Response to Motion for Summary
11 Judgment;
12 • State's Response in Opposition to Motion to Strike;
13 • Declaration of Bryce Brown with attachments re Opposition to Motion to Strike;

14 From Elizabeth Campbell ('Campbell'):

- 15 • Campbell's Special Motion to Strike pursuant to RCW 4.24.525 ('Motion to Strike');
16 • Declaration of Knoll Lowney with attachments re Motion to Strike;
17 • Campbell's Reply in Support of Motion to Strike

18 From Seattle Citizens Against the Tunnel ('SCAT'):

- 19 • SCAT's Objection/Opposition to Motion for Summary Judgment
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1 Having resolved all issues in this case, it is hereby **ORDERED, ADJUDGED, AND**
2 **DECREED** that:

3 1. This lawsuit was not "based on an action involving public participation and petition," as
4 required by RCW 4.24.525(4)(b) and Defendant Elizabeth Campbell's Special Motion to
5 Strike is therefore **DENIED**;

6 2. Defendant Washington State Department of Transportation's request for attorneys' fees
7 pursuant to RCW 4.24.525(6)(b) is **DENIED**;

8 3. There are no genuine issues of material fact regarding whether proposed Initiative 101 is
9 beyond the scope of the local initiative power;

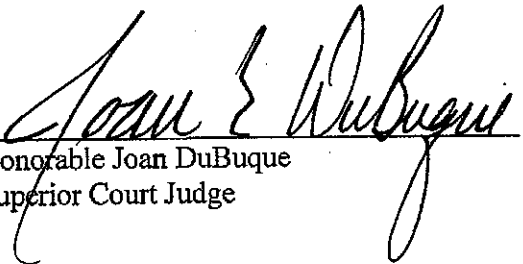
10 4. Proposed Initiative 101 is beyond the scope of the local initiative power, because it
11 purports to exercise a power that the state legislature has directly delegated to cities'
12 governing bodies;

13 5. Section 1 of Initiative 101 is not properly severable because it is inextricably intertwined
14 with the other sections of the initiative;

15 6. The City's Motion for Summary Judgment is therefore **GRANTED** and the Court
16 **DECLARES** that proposed Initiative 101 may not be placed on the ballot.

17 DATED this 19th day of July 2011.

18
19
20 By:


Honorable Joan DuBuque
Superior Court Judge

1 Presented by:

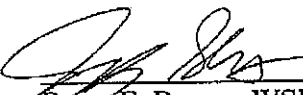
2 PETER S. HOLMES
3 Seattle City Attorney

4 

5 Jeff Slayton, WSBA No. 14215
6 John B. Schochet, WSBA No. 35869
7 Gary E. Keese, WSBA No. 19265
8 Assistant City Attorneys
9 Attorneys for Plaintiff City of Seattle

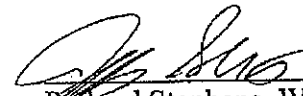
10 Agreed to and presentation waived by:

11 ROBERT M. MCKENNA
12 Attorney General

13 By:  per authorization from

14 Bryce E. Brown, WSBA No. 21230
15 Assistant Attorneys General
16 Attorneys for WA State Dept. of Transportation

17 GROEN STEPHENS & KLINGE LLP

18 By:  per authorization from

19 Richard Stephens, WSBA No. 21776
20 Attorney for Elizabeth Campbell and Seattle Citizens Against the Tunnel
21
22
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