

KENAI PENINSULA BAR ASSOCIATION

June 7, 2016

Agenda Item M.3

Committee Finance

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Blaine Gilman, President
Kenai Peninsula Borough Assembly Members
Kenai Peninsula Borough Assembly
144 N. Binkley St.
Soldotna, Alaska 99669

Re: KPB Ordinance 2016-16, Amending Sales Tax Code to Increase Sales Tax

Dear Borough Assembly Members:

The Kenai Peninsula Bar Association, a voluntary bar association which consists of attorneys who practice on the Kenai Peninsula, is opposed to KPB Ordinance 2016-16, which would double the maximum sales tax cap (from \$500 to \$1000). This ordinance will harm consumers of legal services, and the small businesses that provide these services. During this period of statewide and Borough-wide economic instability, the Borough should not be raising taxes or adopting ordinances that harm consumers or small businesses. We urge the Assembly members to VOTE NO ON ORDINANCE 2016-16.

Borough Sales Tax Code Unfairly Discriminates Against Consumers of Legal Services. Under the current Borough sales tax code legal services are subject to sales tax, while other professional services, such as doctors and psychologists, are exempt. The Borough sales tax code at KPB 5.18.430(C) further discriminates against legal consumers, by requiring them to pay monthly sales taxes on their legal bills, while most other consumers are exempt from this requirement. There is no valid reason for this discriminatory treatment.

Ordinances 2016-16 Will Disproportionately Increase Tax Burden on Legal Consumers. Ordinance 2016-16 will substantially increase the amount of sales taxes most legal services consumers must pay. Most flat fee legal services are over \$500, so sales taxes could double for clients of those services. Clients with monthly bills could see as much as **\$360.00 per year** sales tax increase. These sales tax increases could make legal services no longer affordable for some consumers. Thus, just like residential renters (Larry Persily memo), consumers of legal services will be disproportionately impacted by the increase in the maximum sales tax cap.

Legal services are generally not voluntary: defendants in criminal and civil cases must obtain legal counsel or suffer imprisonment or large money judgments against them. People who are getting divorced must go through the Alaska Court System, and it is very difficult to obtain a fair outcome without a lawyer. People must obtain legal services for estate planning, and to start and run businesses. Every aspect of modern life involves the legal system in some way. Unlike other consumers, these clients cannot simply avoid sales taxes by deciding not to obtain legal services.

Ordinance 2016-16 Will Harm Local Small Businesses. All of the private law firms with offices on the Kenai Peninsula are small firms, with 2-5 lawyers and staff. These firms provide essential services to large businesses, other small businesses, and individuals with legal needs on the Kenai Peninsula. The Borough sales tax code already puts local attorneys at a competitive disadvantage with Anchorage lawyers, who provide services to Kenai Peninsula residents but charge no sales tax. If Ordinance 2016-16 is adopted, this competitive disadvantage will increase.

The current sales tax code also gives a competitive advantage to local businesses and industries which are exempt from sales taxes or which don't have to charge sales taxes monthly over businesses, including law firms, who are not exempt or must charge monthly sales taxes. This unfair competitive advantage will increase under Ordinance 2016-16.

Ordinance 2016-16 Should Be Tabled. There has been no Borough outreach to the consumers and small businesses negatively affected by Ordinance 2016-16. There is no Administration analysis of the consequences of Ordinance 2016-16 on small businesses in the local economy. We were led to believe that there would be some kind of public working group that would consider changes to the sales tax code, but that didn't happen. Instead, our group found out only last week that Ordinance 2016-16 had been introduced and was set for hearing a few days later. This process put the legal services consumers and businesses at a substantial disadvantage. A better way to handle proposals to change the sales tax code is to have a work session or series of meetings with those negatively affected by sales tax code changes, who could provide real information to consider when looking at changes to sales tax policy. Or, better yet, a public committee with consumer and business members to review proposals from the Borough administration for sales tax code changes, so the public has an opportunity for input BEFORE code changes are introduced at the assembly level.

For the above reasons, we hope you will VOTE NO ON ORDINANCE 2016-16; or, at least, table it until a Sales Tax Committee with consumer and business members has a chance to look at bringing some fairness to the Borough sales tax code. If the Borough is in a fiscal crisis, then please look at a more fair way of obtaining that revenue than Ordinance 2016-16.

Thank you for your consideration of these points.

Very truly yours,



KRISTINE A. SCHMIDT, President
KENAI PENINSULA BAR ASSOCIATION