

May 18, 2011

News

How Pete Holmes Blew \$80,000

Judge Finds City Attorney Lacked Authority to File Expensive Pro-Tunnel Lawsuit

by Dominic Holden

On May 13, a King County Superior Court judge ruled that at least part of a referendum on the controversial deep-bore tunnel was referable to voters—and that a vote could come as soon as August. While the city waits for Judge Laura Gene Middaugh's final May 20 decision on what can appear on the August ballot, it's worth noting something else she announced: The city had no business filing a lawsuit to stop that vote in the first place.

City Attorney Pete Holmes insisted that he had the legal prerogative to file a lawsuit against Protect Seattle Now, a group that collected nearly 29,000 signatures to put the \$4.2 billion project up to a public vote. "I have the independent authority to take this action," Holmes declared in March. Holmes drafted thousands of words explaining his reasoning (the city's law approving the tunnel was an administrative act exempt from elections), deployed the leading attorneys at City Hall to research the case, and sent a phalanx of staff to the King County Courthouse to make arguments. Fifty minutes later, Judge Middaugh announced quite plainly her reading of the law: "The city attorney does not have the authority to file an action on behalf of the city of his own initiative."

The law was clear, she said, and Holmes was wrong. (Never mind that he ran for office pledging that "the people of Seattle are the clients" and he was now suing "the people of Seattle" to stop them from voting.)

So how much time and money did Holmes waste on this losing legal fight?

The Stranger filed a public records request last month that found Holmes's staff had spent over 1,445 hours determining whether Referendum 1 and Initiative 101 were referable to the ballot and preparing lawsuits to prevent an August election. More than 90 percent of those hours were spent by attorneys who make an average of \$58 per hour, while the rest of that time was expended by others who make \$26 per hour. By these metrics, the lawsuit had cost an estimated \$79,186 as of the day before the court hearing.

"It strikes me as really surprising that they spent that many hours and that many tax dollars on this project," says Gary Manca, the attorney representing Protect Seattle Now. "It's an insane number of hours. He overreached and exceeded his power."

Holmes's spokeswoman did not provide comment for this story, but clearly the city attorney is now in a backseat role to the state and a pro-tunnel business group called Let's Move Forward, which should have been the one filing the lawsuit. Asked after the judge's ruling why his office

invested so much time and money in a case it lacked authority to file, assistant city attorney John Schochet said his arguments would remain the same as a secondary plaintiff. "We would have done the work in any event," he said.

Next up: the questions about which parts—if any—of the referendum can go to voters this summer. Stay tuned to Slog, *The Stranger's* fanatical tunnel blog, for details. 🌟

Holden, Dominic. "How Pete Holmes Blew \$80,000: Judge Finds City Attorney Lacked Authority to File Expensive Pro-Tunnel Lawsuit". *Stranger*. May 18, 2011. Index Newspapers, LLC.

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