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September 1, 2011

Will Earnhart, Assistant Municipal Attorney
Municipality of Anchorage
Division of Law – Civil Division
632 W. Sixth Avenue, Ste. 730
Anchorage, AK 99501

RE: AWWU Strike at 10:00 AM Friday, September 2, 2011

Dear Will:

This letter comes after 19 months of negotiations, which included mediation, fact finding, and finally arbitration on the very few issues still remaining at the end. Those few issues were put before local business man and retired judge, Douglas Serdahely. He issued a fact finding report and, when we still could not agree, he issued a conservative split arbitration decision on the remaining issues. The package of the agreements the parties had made between themselves and the Arbitrator's decision on the contested issues (the contract) was placed squarely before the Assembly for an up and down vote. For this bargaining unit, the code requires a super majority vote (8 votes) for approval. On Tuesday, August 30, four assembly members voted "no." Under the rules, that meant that the Assembly voted down the AWWU contract.

Under the Code when the Assembly does not approve the Arbitrator's decision the parties are at impasse. The Mayor has the option to implement on AWWU employees his last best offer, which would give AWWU employees the worst labor contract in the city. We understand he intends to do so. The AWWU employees have the lawful right to strike. See AMC 3.70.110.C.10.b.

The Union purposefully and out of respect for the Assembly did not take a strike vote before the August 30th meeting. Neither the Union nor the AWWU employees want to strike. However, our only other option is to accept the worst labor contract in the city and one that a neutral, retired judge has rejected. As expected, the AWWU employees followed the lead of Judge Serdahely and they rejected the Mayor's last best offer like he did. On August 31, AWWU employees voted overwhelmingly to authorize a strike.

This will confirm that my office and the office of the city attorney have had a number of conversations about the possibility that the Arbitrator's award would not be approved. That was not the result anyone wanted, but it was always a possibility. Our discussions focused on ways to preserve public safety and minimize possible damage to

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the plant, equipment, and infrastructure of AWWU in the event of a strike. I understand from our discussions immediately after the Assembly meeting and shortly after 7:00 AM this morning, you have the injunction pleadings and supporting documents substantially complete.

Going forward we are concerned that trying to agree on a stipulation may be overly time consuming and unproductive. Below are the Union's positions. This letter may be introduced in court as an official communication made for the purpose of conveying and confirming these points.

1. All represented employees in the AWWU bargaining unit will go on strike at 10:00 AM Friday, September 2, 2011. This includes facilities maintenance personnel and mechanical inspectors. At 10:00 AM Friday all represented employees will exercise their right to strike by quitting work and leaving their work facilities. We have advised all members against any form of demonstration or misconduct. They will simply turn in their keys and phones and leave.

2. The Municipality of Anchorage has standing to file for an injunction applicable to the entire bargaining unit.

3. An attempt to get an injunction requiring only selected workers to return to work would be an unfair labor practice. The Municipality has no standing and the court has no jurisdiction to issue any injunction in this matter that divides or reorganizes the bargaining unit. Will, I raise this because of reports that the Mayor is on the radio saying that he will attempt to bring only selected employees back to work. If that's true it's not only illegal, but it directly contradicts your email to me on Monday.

4. A strike by AWWU employees will threaten the health, safety and welfare of the public. Although AWWU could continue to operate for a short period of time, we believe the danger to the public, in many respects, would be immediate once a strike begins. If an injunction is going to issue at some point anyway (which we both believe will happen), lets get it done before there is any chance of damage to persons or property.

5. It is not necessary to the court's jurisdiction, or to the exercise of its equitable powers to protect the public, that the strike be allowed to start or that it be allowed to continue until there is actual damage to public health, safety and welfare. The danger is real, the strike is scheduled, and the public welfare is clearly at risk.

6. Accordingly, the Union will consent to the issuance of a preliminary injunction enjoining the strike. But, it must be clear in the preliminary injunction that:

- The preliminary injunction to protect the public welfare is not a waiver by either party of any argument, right or issue with respect to the permanent injunction; and

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- The court must preserve the current status quo pending a full opportunity of both parties to propose and brief all outstanding legal question(s) prior to the issuance of a final injunction. That means that the Mayor's LBO may not be imposed on the unit during the term of any preliminary injunction; and
- The preliminary injunction applies to the entire unit, and not just to selected employees; and
- The court and the parties agree to a reasonable briefing schedule for resolution of all outstanding issues.

Will, I'm traveling out of state during the next couple of weeks. That will need to be reasonably accommodated.

Our intent is to allow the administration to stop the strike, before it starts, if it so desires. That's the Mayor's call.

Sincerely,

JERMAIN, DUNNAGAN & OWENS, PC



Chuck Dunnagan
General Counsel, UA 367

cc: UA 367
Media