

# REID, MCCARTHY, BALLEW & LEAHY, L.L.P.

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### ***Via Email Only***

Fox Blackhorn  
Compliance Coordinator 2  
Public Disclosure Commission  
Evergreen Plaza  
711 Capitol Way S #206  
Olympia, WA 98504  
Email: pdc@pdc.wa.gov

Re: PDC Case Number 56886

Dear Mx. Blackhorn:

I represent Teamsters Local 589 in this matter. On or around August 22, 2019, the Freedom Foundation filed a complaint against Teamsters Local 589 with the Public Disclosure Commission (PDC). The complaint alleges that Teamsters Local 589 did not disclose independent expenditures for legal services in opposition to Propositions 1 and 2 related to the City of Sequim in 2014.

On or around September 3, 2019, Teamsters Local 589 first received notice of the Freedom Foundation's complaint. On or around September 4, 2019, Teamsters Local 589, through its legal counsel, contacted the PDC to request filing assistance.

Without waiving any of our rights or arguments, Teamsters Local 589 will disclose its attorneys' fees and costs related to the litigation regarding the two proposed initiatives

concerning collective bargaining in the City of Sequim in 2014. Teamsters Local 589 also reserves its right to supplement its arguments related to this issue. Teamsters Local 589 plans to disclose its attorneys' fees and costs within the next several days (the Union is still finalizing its C6 report and getting clarification with PDC filing assistance).

Teamsters Local 589 was not aware of a requirement to file with the PDC regarding its litigation expenses until it received the complaint through the PDC—and it is still not certain that such a requirement exists. But out of an abundance of caution, Teamsters Local 589 will disclose its legal expenses related to the litigation regarding the Sequim Propositions.

Local 589 remains uncertain regarding any duty to file with the PDC because its conduct is distinguishable from that of the Evergreen Freedom Foundation as documented in the recent Supreme Court case, *State v. Evergreen Freedom Foundation*, 192 Wn.2d 782 (2019), and of the defendants in the even more recent case, *State v. Economic Development Board for Tacoma-Pierce County*, 441 P.3d 1269 (2019). Unlike the defendants in those cases, Teamsters Local 589 did not initiate litigation *against* the City of Sequim related to Propositions 1 and 2. Teamsters Local 589 only became a named party in the lawsuit after the Plaintiff, Susan Brautigam<sup>1</sup>, sued the City of Sequim demanding that the City either refer Propositions 1 and 2 for placement on the ballot for an upcoming election, or alternatively, adopt the proposed Propositions.

Thus, by the time the Teamsters Local 589 became a party to this litigation, the City of Sequim had already (1) decided not to place the Propositions on the ballot or adopt them; and (2) been sued by Brautigam (who was getting help from the Evergreen Freedom Foundation). Teamsters Local 589 filed a motion to intervene in the lawsuit, which was granted, and then

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<sup>1</sup> The Evergreen Freedom Foundation provided legal services for Ms. Brautigam's lawsuit.

proceeded to support the City of Sequim in this litigation and argue against the Propositions as violating of its collective bargaining agreements with the City and/or state law.<sup>2</sup> In fact, Teamsters Local 589 argued that it was an indispensable party under Rule 19 in this case and should have been named and properly served in this action. But significantly, if Ms. Brautigam had never sued the City of Sequim to force the City to violate its contract with and legal duties to the Union, Teamsters Local 589 would not have been involved with any type of litigation related to the Propositions.

In short, the Freedom Foundation was pushing the Propositions for the purpose of violating the collective bargaining agreements between the City of Sequim and Teamsters Local 589, and/or state laws related to public sector collective bargaining. The Union was driven into a unique position not occupied by the litigants in the Supreme Court case. Teamsters Local 589 had a duty to represent its members and defend the City's position not to enact the Propositions (or place them on the ballot in violation of state law). This is what labor unions, including Teamsters Local 589, are required to do on daily basis in their normal course of business: Defend the contractual and/or statutory rights of its members. The litigation related to Propositions 1 and 2 at the City of Sequim was no different.

That is one of the reasons why Teamsters Local 589 did not think it had a duty to disclose its litigation expenses related to the 2014 Propositions at the City of Sequim: It was only hiring attorneys to defend the contractual and/or statutory rights of its members; conduct that it normally does not disclose to the PDC (and is still not even sure it has to).

In addition, Teamsters Local 589 was not hiding its involvement in this litigation. From the start, Local 589 made clear that it was intervening in Ms. Brautigam's lawsuit against the

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<sup>2</sup> Teamsters Local 589 eventually became an Intervenor-Defendant in the case, Answered the Plaintiff's Complaint, and Counterclaimed.

City of Sequim. Notably, Local 589 was not behind the scenes supporting another named party or entity (as the defendant in the other recent PDC case *State v. Evergreen Freedom Foundation* was doing). Local 589's name was in all the pleadings. Therefore, from a public policy and full disclosure perspective, the Union's conduct, positions, and arguments in this litigation were fully known from the start.

Furthermore, as the Freedom Foundation has discussed, Teamsters Local 589's attorneys' fees and costs are already publicly disclosed on LM-2 forms filed with the U.S. Department of Labor and available on its website. While it is true that the reader cannot determine the exact amount spent on the Sequim Propositions, it was already public knowledge that Teamsters Local 589 was involved in this litigation and that it was spending attorneys' fees and costs. Clallam County Supervisor Court ultimately found that Propositions 1 and 2 were "invalid, unlawful, and/or preempted by state law, and that they must not be enacted by the City of Sequim or placed on the ballot..." The Court also dismissed the Plaintiff Brautigam's Complaint and denied her Summary Judgment Motion.

Consequently, there is no evidence that anyone, including Teamsters Local 589, benefitted politically or economically from the noncompliance with PDC rules and/or regulations (assuming there was noncompliance). Moreover, the impact of the noncompliance with PDC rules and/or regulations (again, assuming there was noncompliance) on the public is minimal, if any.

And yes, it's been around five years since Teamsters Local 589 engaged in the litigation related to the Sequim Propositions, but the two cases upon which the Union's alleged duty of disclosure is based, *Evergreen Freedom Foundation, supra*, and *Economic Development Board for Tacoma-Pierce County, supra*, were not decided until January and May, 2019, respectively.

And as discussed above, Teamsters Local 589's situation is still different than the defendants in these two cases, so its duty to disclose has not been fully clarified yet.

In addition, Teamsters Local 589 is a labor union. It is not a political organization and does not have a PAC. Notably, since around 2009, Teamsters Local 589 has not engaged in political activity that is required to be reported to the PDC. It therefore had no occasion to file with the PDC for the last several years. This lack of experience with the PDC is another mitigating factor in this case.

In sum, Teamsters Local 589 has responded quickly to this complaint and wishes fully to cooperate with the PDC regarding this matter and resolve it as soon as possible. Nonetheless, based on Teamsters Locals 589 unique position in this litigation, it is still not clear that Teamsters Local 589 needs to file with PDC, so any noncompliance (assuming there is noncompliance) is a good-faith error or misunderstanding.

Sincerely,



Thomas A. Leahy