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February 4, 2021

The Honorable Bob Sivertsen
Mayor, City of Ketchikan
344 Front Street
Ketchikan, AK 99901

Dear Mayor Sivertsen:

As the cruise industry remains focused on developing safe return to service protocols by partnering with stakeholders at all levels of government, industry, and the private sector, cooperation between the industry and coastal communities is more important than ever before. The draft ordinance amending local cruise ship passenger fees in the packet for Thursday's City Council meeting impedes everyone's ability to collaborate and work towards a comprehensive return to service solution that the industry and our destination partners require.

Following the City Council's RFP decision in late-2020, we understood that the Council directed city leaders to work with the industry to develop a mutually beneficial arrangement for the use of passenger fees in a way that addresses both urgent and long-term community needs. This was the approach taken in Juneau, where the CBJ and industry acknowledged and supported important services provided in support of our guests. One of many positive outcomes from the Juneau approach is a commitment that community leaders and CLIA Alaska will meet annually to discuss local and industry needs and how we can cooperatively work to address those needs.

CLIA Alaska has consistently expressed a desire and intention to establish a similar relationship with the City of Ketchikan. The timing, process, and substance of this proposed ordinance attempts to expand the scope of passenger fee use without any level of commitment to consult with or communicate with the industry at any interval. Given that no one from the City has reached out to industry informing us of this proposed policy shift or to discuss the rationale prior to the ordinance being put before the Council, we do not believe this approach is reflective of the partnership we both strive for and need.

Our interpretation of the proposed ordinance is that it establishes a new tax on cruise operations and will, in effect, eliminate the special exception which was carved out for Ketchikan by the Legislature in 2010. That measure allowed Ketchikan to receive \$5 per passenger (split between the City and Borough) that was not allowed under original state ballot initiative, given that Ketchikan already had a local tax in place. The legislation further allowed cruise lines to offset certain local passenger charges against state tax obligations ensuring that every passenger coming into the state would pay the same rate regardless of varying port calls. This eliminated the incentive to favor one port over others in planning vessel itineraries.

Ketchikan's recently enacted passenger fee increase of \$9 over the original \$7 has already upset this arrangement. Only the original \$7 is deductible from the amount due to the State. We interpret this present proposal as a new tax, in which the original \$7 per passenger fee is extinguished or superseded



causing that portion of passenger fees tax to revert to the State, to be replaced by a new charge against passengers which would no longer be deductible. Under this scenario the result would be when ships return to Alaska and dock at the city owned or leased docks, the cost per passenger would increase a total of \$9, which would not be embedded in the overall state tax fee that was the subject of a settlement in 2010.

We are taken aback to see this ordinance proposed at a time when the industry has been shut down in the US since March of 2020. Rather than collaborating to restore local jobs and local revenue as we all emerge from this pandemic, the proposed approach increases costs at a time when CLIA members are unable to operate or generate revenue.

We have requested legal review of both the ordinance and the supporting legal memorandum. However, our initial impression is that the ordinance would not survive Constitutional challenge, despite obvious efforts to avoid the limits of the 2018 federal court decision that upheld CLIA Alaska's objections to Juneau's passenger fees. Mr. Blasco's legal analysis minimizes the degree to which Juneau's passenger fees were found by Judge Holland to be incompatible with federal constitutional prohibitions. Our initial legal review indicates that the several changes intended to insulate the proposed Ketchikan fees from legal attack are changes more of form than substance. In fact, what is being proposed is consistent with the original state passenger tax, which was also modified as part of a long-term settlement with industry. However, all the alleged defects of the State passenger fees, pre-settlement, appear to be present in this proposed ordinance.

We strongly prefer to engage in meaningful dialogue with the City rather than having disputing lawyers leading this discussion. As guests in your community, who bring substantial economic benefits, we respectfully request you set this issue aside, focus your immediate attention on working with us to resume operations, and establish positive communications to enable the City and industry to achieve a long-term, mutually beneficial agreement.

Respectfully,

Charlie Ball
Chairman, CLIA Alaska

CC: Ketchikan City Council



Robert Sivertsen, Mayor
334 Front Street
Ketchikan, AK 99901

(907) 228-5603 phone
(907) 225-5075 fax

February 10, 2021

Mr. Charles Ball, Chairman
Cruise Lines International Association Alaska
360 K Street, Suite 300
Anchorage, Alaska 99501

Dear Mr. Ball:

Re: Ordinance No. 21-1926 – Amending Chapter 13.10 Of The Ketchikan Municipal Code, Entitled “Passenger Wharfage Fees”; To Impose Such Fees Directly On Passengers And To Provide For The Collection, Payment and Enforcement Of Such Fees; And Establishing An Effective Date

With regard to the above referenced subject, please be advised the City Council took no action on Ordinance No. 21-1926 at its meeting of February 4, 2021. As suggested by your correspondence of that date, the City is open to further dialogue with CLIA. While we are willing to discuss CLIA's concerns, the City's ultimate goal is to restructure its passenger wharfage fees to avoid perceived conflicts with the Tonnage Clause while not interfering with the State's allocation of Commercial Passenger Vessel (CPV) revenues to Alaska's Ports of Call. To that end, the City understands that the Municipality of Skagway is considering an amendment to its Municipal Code that is similar in nature to Ordinance No. 21-1926. Given the issues outlined in your letter, it would certainly make sense to include Skagway in Ketchikan's discussions with CLIA. Mayor Cremata has advised City staff of Skagway's interest in participating in any discussions that may affect his community in the future.

The City is more than willing to host such a discussion, either virtually or in person depending on the parties' preference. If you could provide dates when you and CLIA representatives can be available and the desired format, I will be glad to finalize arrangements for the parties to come together to discuss subjects of mutual concern. Since CLIA has requested a legal review of the Ordinance No. 21-1926 and raised the possibility of a constitutional challenge, both Ketchikan and Skagway desire to have their respective legal counsel available to consult and/or participate in the discussion as circumstances warrant.

Should you have any questions on this matter, please do not hesitate to contact me.

Sincerely,

Bob Sivertsen
Mayor

cc: Ketchikan City Councilmembers
Karl R. Amylon, City Manager
Lacey Simpson, Assistant City Manager
Mark Hilson, Acting Port & Harbors Director
Mayor Cremata, Municipality of Skagway
City Manager Brad Ryan, Municipality of Skagway
Mitch Seaver, City Attorney
Robert Blasco, Hoffman and Blasco, LLC



February 24, 2021

The Honorable Robert Sivertsen
Mayor, City of Ketchikan
334 Front Street
Ketchikan, AK 99901

Dear Mayor Sivertsen:

Thank you for your correspondence and openness to having a dialogue with the cruise industry regarding the proposed wharfage fee changes.

Given the somewhat sudden nature of the proposal to make a change to the existing fee structure, we would like to meet initially to try to better understand the problems with the existing fee structure as well as the rationale for the proposed change. As you may imagine, given the recent Juneau settlement and Ketchikan's unique position as one of two communities with a fee deduction enshrined in state legislation, we are concerned about the possible unintended consequences of any change.

More fundamentally, we would like to better understand from your perspective where we need to be, fee wise, over the longer term to address the community needs so we can best plan for a positive partnership moving forward. I believe this is an overdue conversation from the end of the RFP process and would be helpful to the lines as we look forward to re-starting again when it is safe.

Hopefully, this is an agreeable approach, and we can lock in a date in the next several weeks to begin a more regular dialogue. Please let Mike Tibbles know if there are a couple of options available for a meeting and we will get back to you quickly to confirm a time.

Best regards,

Charlie Ball
Chairman, CLIA Alaska

CC: Ketchikan City Council



Robert Sivertsen, Mayor
334 Front Street
Ketchikan, AK 99901

(907) 228-5603 phone
(907) 225-5075 fax

February 26, 2021

Mr. Charles Ball, Chairman
Cruise Lines International Association Alaska
360 K Street, Suite 300
Anchorage, Alaska 99501

Dear Mr. Ball:

Re: Proposed Revisions to the Port of Ketchikan's Passenger Wharfage Fee

I am in receipt of your correspondence dated February 24, 2021. City staff and I would welcome the opportunity to fully discuss the proposed changes to the Port of Ketchikan's passenger wharfage fee and gain a better understanding of the specific concerns that CLIA may have. While I am certainly open to discussing the longer-term needs of the community and the Port, the City Council has yet to establish defined goals after its decision to abandon the RFP process. Depending on what topics we discuss, further consultation with the City Council may become necessary.

As I indicated previously, I believe it will be beneficial to have representatives from Skagway participate in this initial discussion and have extended an invitation to Mayor Cremata and City Manager Brad Ryan to participate in the meeting. While Mayor Cremata has accepted, he has advised me that in the absence of specific direction from the Skagway Borough Assembly, he and Mr. Ryan will only participate as observers. I have also asked Attorney Blasco to participate to respond to specific questions regarding Ordinance No. 21-1926.

As City Manager Amylon will be out of town the week of March 1st, I would suggest we look to the weeks of March 8th or 15th to schedule the meeting. I have consulted those that will be participating and they have requested that we avoid the dates of March 9th – 11th and March 16 and 18, 2021. They have also asked that we not meet between 11:00 a.m. and 2:00 p.m. By copy of the correspondence to Mike Tibbles, I am asking that he consult with you to select a date(s) that will work for CLIA.

Should you have any questions on this matter, please do not hesitate to contact me.

Sincerely,

Bob Sivertsen
Mayor

cc: Ketchikan City Councilmembers
Karl R. Amylon, City Manager
Lacey Simpson, Assistant City Manager
Mark Hilson, Acting Port & Harbors Director
Mayor Cremata, Municipality of Skagway
City Manager Brad Ryan, Municipality of Skagway
Mitch Seaver, City Attorney
Robert Blasco, Hoffman and Blasco, LLC
Mike Tibbles, CLIA

Taylor Lee

Subject: FW: [EXTERNAL] Proposed Revision to the Port of Ketchikan's Passenger Wharfage Fee

From: Ball, Charlie (PCL)

Sent: Friday, February 26, 2021 11:25 AM

Subject: RE: [EXTERNAL] Proposed Revision to the Port of Ketchikan's Passenger Wharfage Fee

CAUTION: External Email

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you all,

Mike and I will be in touch shortly to get a date. Likely I'll have to invite an attorney as well given your preferred participant list.

Best regards – Thank you - Charlie

Charlie Ball

Executive Vice President | Land Operations

Holland America Group | Serving Princess Cruises, Holland America Line, Seabourn, and P&O Australia

From: Diane Bixby

Sent: Friday, February 26, 2021 11:56 AM

To: Ball, Charlie (PCL)

Cc: MayorCouncil

Subject: [EXTERNAL] Proposed Revision to the Port of Ketchikan's Passenger Wharfage Fee

CAUTION: This email originated from outside of the organization.

Dear Mr. Ball,

Please see the attached letter in regards to the proposed revision to the Port of Ketchikan's passenger wharfage fee. We look forward to meeting with you in the near future.

Kind Regards,

Diane L. Bixby | EXECUTIVE ASSISTANT – MANAGER'S OFFICE

P (907) 228-5603 | diane@ktn-ak.us

CITY OF KETCHIKAN | KETCHIKAN PUBLIC UTILITIES

334 FRONT STREET, KETCHIKAN, AK. 99901